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REPORT
No. 1095

CONTROL OF BANK HOLDING COMPANIES

REPORT

OF THE

COMMITTEE ON BANKING AND CURRENCY

EIGHTY-FOURTH CONGRESS
FIRST SESSION

JULY 25, 1955.—Ordered to be printed

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UNIVERSITY OF MICHIGAN LIBRARIES

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BANK HOLDING COMPANY ACT OF 1955

JULY 25, 1955.—Ordered to be printed

Mr. ROBERTSON, from the Committee on Banking and Currency, submitted the following

REPORT

[To accompany S. 2577]

The Committee on Banking and Currency, to whom was referred the bill (S. 2577) to define bank holding companies, control their future expansion, and require divestment of their nonbanking interests, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

GENERAL STATEMENT

In the opinion of your committee, public welfare requires the enactment of legislation providing Federal regulation of the growth of bank holding companies and the type of assets it is appropriate for such companies to control. In general, the philosophy of this bill is that bank holding companies ought to confine their activities to the management and control of banks and that such activities should be conducted in a manner consistent with the public interest. Your committee believes that bank holding companies ought not to manage or control nonbanking assets having no close relationship to banking.

It is not the committee's contention that bank holding companies are evil of themselves. However, because of the importance of the banking system to the national economy, adequate safeguards should be provided against undue concentration of control of banking activities. The dangers accompanying monopoly in this field are particularly undesirable in view of the significant part played by banking in our present national economy. The extensive use of bank checking accounts in modern commerce exerts an influence on the value of money, which the Constitution empowers the Congress to regulate. Moreover, banking activities are carried on to a large extent by the use of depositors' funds rather than by the use of equity capital subscribed by bank shareholders.

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Considerable care has been taken to provide regulatory control over individual banks by Federal and State authorities. Yet there is at present only a very limited control over the activities of bank holding companies that manage or control banks. The Banking Act of 1933 (commonly referred to as the Glass-Steagall Act) provides a measure of control through the Board of Governors of the Federal Reserve System, but only (1) if one bank in the holding-company group concerned is a member of the Federal Reserve System, and (2) if the holding company wishes to vote the stock it owns in such a bank. Under those limited conditions, such a bank holding company must apply to the Federal Reserve Board for a voting permit and submit itself and its subsidiaries to examination. It should be noted that under the present law, the bank holding company can remove itself from Federal Reserve Board control by abstaining from voting the shares of the member banks it owns.

As of December 31, 1954, only 18 holding company affiliate bank groups in the United States had obtained voting permits from the Federal Reserve Board. Based on information readily available to it, the Board estimates there are 46 bank holding companies in the United States that would be subjected to regulation by the Board under the terms of this bill, based upon the ownership by the company of 25 percent or more of the shares of each of two or more banks.

Testifying before your committee for the Board of Governors of the Federal Reserve System, Chairman William McChesney Martin, Jr., stated:

> Existing provisions of law, originally enacted in the Banking Act of 1933, have proved entirely inadequate to deal with the special problems presented by bank holding companies. It has been, and still is, the Board's view that additional legislation is essential to deal effectively with these problems.

Chairman Martin noted that the principal problems in the bank holding company field arise from two circumstances:

(1) The unrestricted ability of a bank holding company group to add to the number of its banking units, making possible the concentration of commercial bank facilities in a particular area under a single control and management; and

(2) The combination under single control of both banking and nonbanking enterprises, permitting departure from the principle that banking institutions should not engage in business wholly unrelated to banking. Such a combination involves the lending of depositors' money, whereas other types of business enterprise, not connected with banking, do not involve this element of trusteeship.

Your committee is of the opinion that this bill will enable the Federal Government to cope more adequately with both of these problems. Like H. R. 6227, the bank holding bill passed by the House of Representatives, this bill empowers a regulatory agency to pass upon the application of a bank holding company for the acquisition of a substantial number of voting shares in one or more additional banks. The bill also follows the principle laid down in H. R. 6227 that bank holding companies must divest themselves, within a specified period, of nonbanking assets not closely related to banking activities. Thus, under the bill, the growth of bank holding companies in the banking field would be regulated but not prohibited. However, bank holding companies would no longer be authorized to manage or control nonbanking assets unrelated to the banking business.

History

The inadequacy of current Federal legislation in the bank holding company field has led to repeated attempts to pass adequate legislation. In 1938, in a special message to Congress (S. Doc. 173, 75th Cong., 3d sess.), the President urged that the Congress enact legislation that would effectively control the operation of bank holding companies; prevent holding companies from acquiring control of any more banks, directly or indirectly; prevent banks controlled by holding companies from establishing any more branches; and make it illegal for a holding company or any corporation or enterprise in which it is financially interested to borrow from or sell securities to a bank in which it holds stock.

On January 5, 1938, Senator Glass and Senator McAdoo introduced S. 3573, a bill to provide for the regulation of bank holding companies and affiliates, and for other purposes. This bill was referred to this committee; in turn it was referred to the committee's Subcommittee on Monetary Policy, Banking, and Deposit Insurance. If enacted into law, this bill would have carried out the recommendations made by the President in his special message. However, the bill progressed no further after it was referred to the subcommittee.

On January 14, 1941, Senator Glass introduced, by request, S. 310, during the 1st session of the 77th Congress. This bill was likewise referred to the committee's Subcommittee on Monetary Policy, Banking, and Deposit Insurance, but no further action appears to have been taken on it.

During the 1st session of the 79th Congress, Senator Wagner introduced S. 792 on March 26, 1945. A companion bill (H. R. 2776) was also introduced in the House of Representatives. No further action was taken by the committee on either of these measures.

However, during the 1st session of the 80th Congress, Senator Tobey, on March 10, 1947, introduced S. 829. Hearings were held on this measure on May 26, June 2, and June 11, 1947. Following the hearings a committee print designated "2" was prepared at the direction of Senator Tobey on June 13, 1947. This committee on June 19 reported favorably to the Senate a bill to regulate bank holding companies. Senate Report 300 accompanied this bill. The companion bill in the House of Representatives bore bill number H. R. 3351. Amendments to the Senate bill were offered by Senator Buck of this committee on February 3 and March 9, 1948. The proposed legislation progressed no further during the 80th Congress.

During the 1st session of the 81st Congress, on July 22, 1949, Senator Robertson introduced, for himself and Senator Maybank, S. 2318. This bill was the same as S. 829, introduced in the 80th Congress. Hearings were held on S. 2318 on March 1, 2, 3, 15, 16, 17, and 21 in 1950, before the committee's Subcommittee on Federal Reserve Matters. Following these hearings, Senator Robertson introduced S. 3547 on March 5, 1950. Five days later five amendments were offered to S. 3547 by Senator Douglas, for himself and Senator Tobey. No further action was taken on the proposed legislation by the committee during the 81st Congress.

Proposed legislation in this field was next referred to the committee during the first session of the 83d Congress. On January 7, 1953, Senator Robertson introduced S. 76. On February 27 of that year,

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Senator Capehart introduced, by request, S. 1118. Hearings on both bills were held by the committee on June 10, 11, and 12 and July 21 and 22 in 1953. Further hearings on both bills were held by the committee on June 21, 22, and 23 in 1954. During the hearings a third proposed piece of legislation was prepared as a committee print. This was also considered by the committee during the hearings held on the two bills previously mentioned. No further action was taken on the proposed legislation during the 83d Congress.

During the present Congress, Senator Capehart, for himself and Senators Beall, Douglas, Fulbright, Payne, Sparkman, and Frear, on February 1, 1955, introduced S. 880. A similar bill, H. R. 2674, was introduced in the House of Representatives. Hearings on H. R. 2674 were held by the House Committee on Banking and Currency on February 28 and March 1, 2, 3, 4, 7, 8, and 9 in 1955. Following these hearings, H. R. 6227 was introduced in the House, superseding H. R. 2674. On May 20, 1955, the House Committee on Banking and Currency favorably reported H. R. 6227, without amendment. House Report 609 accompanied the bill. After debate, H. R. 6227 was amended and passed by the House on June 14, 1955.

On June 28, 1955, Senator Robertson introduced S. 2350. On July 5, 6, 7, 11, 12, and 14, 1955, the committee's Subcommittee on Banking held hearings on S. 880, S. 2350, and H. R. 6227, as passed by the House of Representatives. Following the hearings, the subcommittee met in executive session and after thorough discussion agreed upon a compromise bill (S. 2577), which Senator Robertson, for himself and Senators Bricker and Bennett, introduced on July 19, 1955. In executive session on July 21, 1955, the committee ordered this bill reported favorably to the Senate, after adopting a comparatively minor amendment.

As is evident from the foregoing, this committee has had proposed legislation on this subject matter before it during most of the past 17 years. *Ample opportunity has been afforded for interested persons* to express views on legislation. Over the years it has been possible to narrow the area of difference in the views of proponents of legislation of this nature. The committee is of the opinion that the bill now favorably reported to the Senate represents adequate and fair legislation to regulate the future expansion of bank holding companies and requires divestment of their nonbanking interests.

It also contains adequate safeguards against "upstream lending" and "horizontal lending" in the bank holding company structure. While it is true that banks within a bank holding company system are subject to Federal or State supervisory authority (and sometimes both), fear has been expressed that, improperly but within the present law, a bank holding company may take undue advantage of one or more banks in its system. This it might do by discounting commercial paper at the bank with a resulting profit to the bank holding company itself but at an unwarranted risk to the bank and its shareholders. No widespread abuse of this nature has been brought to the attention of your committee, but the provision in the bill prohibiting upstream lending should adequately prevent the possibility of any such abuse. This provision, in part at least, is in accordance with the recommendations of Mr. H. Earl Cook, Chairman of the Federal Deposit Insurance Corporation who testified against permitting either upstream or downstream dealing.

The bill's requirement for divestment of nonbanking assets will help to keep bank ventures in a field of their own. The committee was informed of the danger to a bank within a bank holding company controlling nonbanking assets, should the company unduly favor its nonbanking operations by requiring the bank's customers to make use of such nonbanking enterprises as a condition to doing business with the bank. The bill's divestment provisions should prevent this fear from becoming a reality.

Definition of Bank Holding Company

The committee is satisfied that legislation in the bank holding field will be adequate if it applies to any company controlling two or more banks. In order to accomplish this result, the bill defines a bank holding company as one meeting any of the three following tests:

(1) A company which directly or indirectly owns, controls, or holds with power to vote 25 percent or more of the voting shares of each of two or more banks or of a bank holding company;

(2) A company which controls the election of the majority of the directors of each of two or more banks; or

(3) A company for the benefit of whose shareholders or members 25 percent or more of the voting shares of each of two or more banks or a bank holding company is held by trustees.

The bill also includes in its scope any successor to a bank holding company where the relationship between the successor and the bank holding company is such that the successor's acquisition of bank shares from the company causes no substantial change in control of the bank or beneficial ownership of shares.

Section 3 (a) of the bill expressly excludes from the definition of bank holding company the following:

(1) A bank controlling shares in a fiduciary capacity, unless the shares are held for the profit of the bank's shareholders;

(2) A company registered under the Investment Company Act of 1940 prior to May 15, 1955, and its affiliates, unless the company or any affiliate, as the case may be, directly owns 25 percent or more of the voting shares of each of two or more banks;

(3) A company engaged in bona fide underwriting of securities held only for a period of time permitting their sale on a reasonable basis; and

(4) A company formed for the sole purpose for participating in a proxy solicitation which acquired control of voting rights during the course of such solicitation.

The exemption for shares held in a fiduciary capacity is necessary to enable banks to carry on a normal trust business. The exemption for companies registered under the Investment Company Act of 1940 is included in the bill on the theory that any such company is adequately supervised by the Securities and Exchange Commission, which administers that act. Among the purposes listed in that act are the mitigation of undue concentration of the control of investment companies through pyramiding or inequitable methods of control, the mitigation of inequitable distribution of such companies, and the mitigation of irresponsible management of such companies. Your committee believes that SEC regulation in such cases is closely akin to the purposes of this bill and that it is therefore unnecessary

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to require a registrant under the Investment Company Act of 1940 to be subjected to the additional regulatory authority granted to the Board of Governors of the Federal Reserve System by this bill. It will not be possible however, for a bank holding company to evade regulations under the proposed legislation by registering as an investment company since this exception applies only to a bank holding company registered under the Investment Company Act of 1940 prior to May 15, 1955, which does not directly own 25 percent or more of the voting shares of each of two or more banks. An affiliated company of such a company, within the meaning of the Investment Company Act of 1940, is also exempted from the definition of a bank holding company under this bill unless the affiliate directly owns 25 percent or more of the voting shares of two or more banks.

The exemption of a company engaged in the underwriting of securities is included in the bill because of the possibility that such a company might happen to acquire title, in the course of its normal underwriting business, to 25 percent or more of the voting shares of each of two or more banks. Should this transpire, it should be noted that the company must dispose of such shares within a period of time adequate to permit their sale upon a reasonable basis, in order to continue to receive the benefits of exemption from the definition of a bank holding company.

The remaining exemption from the definition of bank holding company is included to allow formation of a bona fide stockholders' committee or a similar organization for the sole purpose of soliciting proxies in order to gain control of voting rights of shares. Your committee is of the opinion that such an exemption is justified in order to prevent undue interference with proxy contests. It was pointed out that if in the course of such a contest, a company so formed acquires control of the voting rights of 25 percent or more of the voting shares of each of two or more banks, it might well find itself included within the definition of a bank holding company in this bill in the absence of a specific exemption. The provision is intended to provide an exemption only for qualified companies during the course of the proxy contest. The exemption is not intended to carry over for the benefit of any such company following the termination of the proxy contest.

DEFINITION OF COMPANY

Under the bill, only a "company" as defined in the bill can become a bank holding company. Company is expressly defined to mean any corporation, business trust, association, or similar organization. It will be noted that an individual, as such, is not included in this definition. Moreover, the definition expressly excludes: (1) any corporation the majority of whose shares are owned by the United States or any State; (2) any corporation or community chest, fund, or foundation, organized or operated exclusively as a religious, charitable, or educational organization, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation; and (3) any partnership.

The first exclusion is provided on the theory that any corporation the majority of whose shares are owned by the United States or any

State is subject to the control of either the United States or of the State owning such shares. The exclusion of religious and other charitable organizations is similar to that granted to such organizations under the Internal Revenue Code. The committee's attention was invited to at least one case where a bona fide religious organization controls two or more banks as well as nonbanking interests as an incident to its main purpose. In the opinion of the committee, even though these incidental business activities are organized for the primary purpose of profit, the very nature of the religious organization itself precludes the possibility of violating the spirit of this bill.

The third exemption from the definition of "company" is granted to any partnership because the attributes of a partnership are similar to those presented by an individual in the sense that neither has perpetual duration. As the individual's personal control of business activities ceases with his death, any business control exercised by a partnership will likewise terminate upon the death of either partner. Usualy, the death of an individual who controls banks is accompanied by a diffusion of ownership of such banks.

By way of contrast, corporations and similar organizations may have perpetual existence. The death of any individual member of a corporation has no effect upon continued control of banks by the corporation. This bill is designed to bring under control those types of entities that may be used as media for acquiring and maintaining in perpetuity management and control of bank shares or assets.

The exemptions previously mentioned in this report are the only ones given by this bill from the definitions of company and bank holding company. All other such organizations are required by the bill to subject themselves to such regulation as the bill prescribes as a condition to growth by means of bank share or asset acquisition.

Your committee did not deem it necessary to include within the scope of this bill any company which manages or controls no more than a single bank. It is possible to conjure up visions of monopolistic control of banking in a given area through ownership of a single bank with many and widespread branches. However, in the opinion of your committee, no present danger of such control through the bank holding company device threatens to a degree sufficient to warrant inclusion of such a company within the scope of this bill. Should legislation of that nature prove desirable in the future, the Congress is free to act upon a showing of need for such a law.

Other Definitions

This bill defines banks to include both National banks and State banks, savings banks, and trust companies. It excludes, however, organizations that do no business in the United States and those organized for foreign or international banking under section 25 (a) of the Federal Reserve Act. A District bank is defined as a State bank organized or operating under the laws of the District of Columbia. A State member bank is defined to mean a State bank which is a member of the Federal Reserve System.

The bill defines a subsidiary of a bank holding company in terms of a company owned or controlled by a bank holding company under the same general tests as laid down for ownership or control exercised by a bank holding company.

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A successor is defined as a company acquiring bank shares from a bank holding company with no resulting substantial change in bank beneficial ownership or control. The Federal Reserve Board is empowered to define successor in more detail by regulation in order to prevent evasion of the purposes of this bill.

The committee is of the opinion that the definitions in this bill will adequately cover the organizations which should be included in the scope of this bill without unnecessarily encompassing organizations that need not be included in order to accomplish the purposes of the bill.

Acquiring Bank Shares or Assets

The bill makes it unlawful for a company to become a bank holding company without prior approval by the Federal Reserve Board. It also makes it unlawful, without like approval, for a bank holding company to acquire bank stocks or assets as noted in the bill or to merge or consolidate with another bank holding company. Federal Reserve Board approval is required if after the proposed acquisition of voting shares of a bank, the bank holding company will own or control, directly or indirectly, more than 5 percent of the bank's voting shares. Like approval is required if a bank holding company (or one of its nonbank subsidiaries) wishes to acquire substantially all of a bank's assets. Acquisition of assets, as well as acquisition of stock, may be used to gain practical control of a bank's operations, especially at its existing site of operations. In order to encourage competitive banking and discourage monopoly of banking, this bill provides regulatory control over both types of acquisition.

For the same reasons, the committee deems it advisable to provide for regulatory control over the merger or consolidation of bank holding companies.

In three types of transactions the committee considered it unnecessary to require Federal Reserve Board approval of the acquisition of bank shares or assets by a bank holding company. It therefore granted exemptions from this requirement—

(1) if a bank which is a bank holding company acquires bank shares in a fiduciary capacity (unless such shares are held for the benefit of the bank's shareholders);

(2) if a bank which is a bank holding company acquires bank shares in the regular course of securing or collecting a debt earlier contracted in good faith (but such shares must be disposed of within 2 years after acquisition); and

(3) if any bank holding company acquires additional shares of a bank as to which it already owns or controls a majority of the voting shares.

The first exemption listed is required to permit the conduct of trust business. The second is required to allow the conduct of normal bank-lending operations. The third exemption is granted because little if any benefit to the public could be achieved by denying a bank holding company the privilege of entrenching more strongly its existing majority control of a given bank.

Decision on Application

The bill contemplates that any Federal Reserve Board approval required under its provisions will be sought by application to the

Board. Some advocates of bank holding company control legislation thought that the bank supervisory authorities (State or Federal Comptroller of the Currency, as the case might be) ought to be given the right to decline such an application, regardless of the opinion of the Federal Reserve Board. Other advocates of such legislation urged that the power of decision be placed in the Federal Reserve Board, with the bank supervisory authorities playing only an informal consulting role. This bill represents a compromise between those two positions. It affords the bank supervisory authorities an opportunity to file with the Federal Reserve Board a formal recommendation that the application be denied. But it also provides that if such a recommendation is made, the Federal Reserve Board must provide a hearing of record after due notice at which the testimony of all interested parties may be received, including, of course, the applicant and the disapproving bank supervisory authority. After this hearing on the merits of the application has been held, the Federal Reserve Board is required to grant or deny the application by formal order. The bill then affords any party aggrieved by the order the right to a judicial review of the order by an appropriate Federal court of appeals. In such a review, the Federal Reserve Board's findings of facts are conclusive, if supported by substantial evidence.

This procedure, it appears to your committee, should afford opportunity for developing the true merits of an application upon due consideration of the facts, in instances where the bank supervisory authority involved expresses written disapproval of the application. It also assures adequate recourse to court proceedings for an aggrieved party.

At the same time, it leaves the Federal Reserve Board free to proceed in a more informal manner in handling an application as to which the appropriate bank supervisory authority expresses no written disapproval.

Application Procedure

In particular, the bill requires that upon receipt of an application for acquisition of bank shares or assets or for merger or consolidation of bank holding companies, the Federal Reserve Board shall give notice to the appropriate bank supervisory authority. If the applicant or the bank whose shares or assets are sought to be acquired is a national bank or a district bank, notice must be given to the Comptroller of the Currency. If the applicant or the bank whose shares or assets are sought to be acquired is a State bank, notice must be given to the appropriate State supervisory authority in the interested State or States. Thirty days are allowed for any notified authority to submit recommendations to the Federal Reserve Board. If within that period, any such notified authority disapproves in writing the application, the Federal Reserve Board must so notify the applicant in writing. Within 3 days after giving such notice, the Federal Reserve Board must give written notification to the applicant and each disapproving authority of the date fixed for commencement of a hearing on the application. The hearing must begin from 10 to 30 days after the Board has given the applicant written notice of the disapproving action by the appropriate supervisory authority. While the duration of the hearing is within the discretion of the Federal Reserve Board, it must last long enough to give all interested parties a reasonable opportunity to testify. Only after the conclusion of the hearing

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may the Federal Reserve Board grant or deny the application. This action is to be taken on the basis of the record made at the hearing.

In acting upon any application for acquisition, merger, or consolidation, the Federal Reserve Board is required by the bill to consider these factors:

(1) the financial history and condition of each company or bank concerned in the application;

(2) the prospects of each;

(3) the character of the management of each;

(4) the convenience, needs and welfare of both the communities and the area concerned; and

(5) whether the effect of the acquisition, merger, or consolidation would be to expand the size or extent of the bank holding company system involved beyond limits consistent with adequate and sound banking, the public interest, and the preservation of competition in the banking field.

It is upon the basis of these factors that the Federal Reserve Board is to measure whether each application should be granted or denied in the public interest. It will be noted that these factors extend beyond the nature of those primary in importance to bank supervisory authorities in the exercise of their supervisory powers. In most instances, safety of the depositor's funds and adequate banking service to the public in the area where the bank operates are uppermost in the consideration of such bank supervisory authorities. The factors required to be taken into consideration by the Federal Reserve Board under this bill also require contemplation of the prevention of undue concentration of control in the banking field to the detriment of public interest and the encouragement of competition in banking. It is the lack of any effective requirement of this nature in present Federal laws which has led your committee to the conviction that legislation such as that contained in this bill is needed. Under its provisions, the expansion of bank holding companies in the banking field would not be prohibited, but would be regulated in the public interest.

In view of the adequate opportunity for expression of opinion on an application accorded to the Comptroller of the Currency and the State bank supervisory authorities in appropriate cases by the bill, the committee deems it unnecessary and inadvisable to insert in the bill any arbitrary prohibition against the expansion of bank holding companies across State lines. Let any application for such expansion be decided on its merits in accordance with the procedure outlined in this bill. The committee received testimony indicating the public benefits which have flowed from the interstate structure of some bank holding companies. Like bank holding companies in general, interstate bank holding companies are not evil of themselves. The provisions of this bill, in the opinion of your committee, provide adequate safeguards so that the maintenance or expansion of such bank holding companies can be regulated in the public interest.

The same reasoning led the committee to believe that the bill should contain no provision leaving solely to State control determination of the question as to whether a bank holding company can acquire an interest in a national bank. If our dual banking system is to operate as a truly dual system, the Federal authorities ought not to surrender their supervisory authority over national banks to State

decision. This is not to say the Federal authorities ought not to consider carefully the views of State authorities regarding the management and control of national banks, but the ultimate determination of public interest in the national bank system should rest with the appropriate Federal authorities. Within broad areas, banks themselves retain the choice of whether they shall operate as State or National institutions.

In any event, another provision of this bill expressly preserves to the States a right to be more restrictive regarding the formation or operation of bank holding companies within their respective borders than the Federal authorities can be or are under this bill. Under such a grant of authority, each State may, within the limits of its proper jurisdictional authority, be more severe on bank holding companies as a class than (1) this bill empowers the Federal authorities to be or (2) such Federal authorities actually are in their administration of the provisions of this bill. In the opinion of the committee, this provision adequately safeguards States' rights as to bank holding companies.

The committee decided against inclusion of a provision in the bill that would automatically apply State laws concerning branch banking to bank holding company operations. The purposes of branch banking laws are not identical with the purpose of this bill to control bank holding companies. Moreover, branch banking is mostly conducted by the use of depositors' funds, thus making the protection of these funds of prime importance. Bank holding companies, however, as such have no depositors. For operating funds they have recourse to equity capital supplied by their shareholders. It is believed the bill contains adequate provisions to regulate bank holding company operations without an arbitrary tiein with branch banking laws.

No pretense is made that this bill will regulate all forms of centralized control of financial institutions. As previously noted, it does not include chain banking, where several banks are controlled by a single individual. Nor does it attempt to regulate centralized control of such financial institutions as savings and loan associations or insurance companies. It has been designed to provide appropriate regulation of centralized control of banking institutions by bank holding companies as defined in the bill.

Divestment of Nonbanking Assets

The bill prohibits a bank holding company from acquiring, after the passage of this bill, ownership or control of any voting shares of any company which is not a bank. It also provides that existing bank holding companies cannot retain ownership or control, for more than 2 years after the date of passage of this bill, of any voting shares of a company which is not related to banking. Nor can any such company engage in a business other than banking or managing or controlling banks or furnishing or performing services for any bank of which it owns or controls 25 percent or more of the voting shares. Upon application by a bank holding company, the Federal Reserve Board is authorized to extend the 2-year deadline for periods of not more than 1 year at a time, provided that in no event can the extensions extend the total divestment period to longer than 5 years after

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the date of enactment of the bill, or 5 years after the date upon which a company becomes a bank holding company, whichever is later. Appropriate exceptions are made in the bill in order to enable bank holding companies to retain ownership and control of nonbanking assets in cases where such retention will not violate the purposes of the bill. Seven classes of such exemptions are provided as follows:

(1) Shares owned or acquired by a bank holding company in a company engaged solely in holding or operating properties used primarily by a bank in the bank holding company system or acquired for future use of such bank in its operations; and shares owned or acquired by a bank holding company in any company engaged solely in conducting a safe deposit business or serving the holding company and banks in the holding company system with respect to such functions as audits, appraisals, investment counsel, or the liquidation of assets acquired from the bank holding company and the banks within the bank holding company system;

(2) Shares acquired by a bank holding company that is a bank or any of its banking subsidiaries in satisfaction of a debt previously contracted in good faith (in which event such shares must be disposed of within 2 years after their acquisition or 2 years after the passage of this bill, whichever is later);

(3) Shares acquired by a bank holding company from any of its subsidiaries by virtue of action initiated by any examining Federal or State authority (but such shares must be disposed of within 2 years after their acquisition or 2 years after the passage of this bill, whichever is later);

(4) Shares held or acquired in a fiduciary capacity by a bank holding company that is a bank or shares eligible for investment by national banks;

(5) Shares of any company that do not represent more than 5 percent of the company's outstanding voting securities and that do not have a value greater than 5 percent of the total asset value of the bank holding company;

(6) Shares of any company whose activities of a financial, fiduciary, or insurance nature are determined by the Federal Reserve Board to be so closely related to the banking business as to constitute a proper incident to that business, and to make unnecessary the divestment of such shares in order to carry out the purposes of the bill; or

(7) Any bank holding company which is a labor, agricultural, or horticultural organization.

It seems obvious that the foregoing exemptions with reference to bank premises, safe-deposit businesses, bank-servicing organizations, collection of debts, involuntary acquisition of shares, and acquisition of shares in a fiduciary capacity, or permissible investments for national banks, are all appropriate in order to enable a bank holding company to carry on operations closely related to banking. The same reasoning dictates the inclusion of exemption (5). Moreover, control of no more than 5 percent of the voting securities of a company is not deemed adequate for effective control of that company. It should be further noted that no bank holding company can enjoy the benefits of this exemption if its investment in the shares of the company exceed 5 percent of the total asset value of the bank holding company.

Exemption (6) has been included by the committee as a necessary provision to enable the administering authority under this bill to permit the retention by a bank holding company of activities found to be closely related to banking. It should be noted that the Board is required to make its determination after due notice and hearing and on the basis of the record made at the hearing. The Federal Reserve Board's action is required to be taken in the form of an order, as to which any aggrieved party can obtain a review in the appropriate court of appeals. In the opinion of your committee, certain activities of a financial, fiduciary, or insurance nature are obviously so closely related to banking as to require no divestment by a bank holding company. For example, the operation of a credit life-insurance program in connection with bank loans is clearly within the scope of banking operations as presently conducted. So is the operation of an insurance program under which the insurance proceeds retire the outstanding balance of the mortgage upon the death of the mortgagor in cases where the bank holds the mortgage. However, there are many other activities of a financial, fiduciary, or insurance nature which cannot be determined to be closely related to banking without a careful examination of the particular type of business carried on under such activity. For this reason your committee deems it advisable to provide a forum before an appropriate Federal authority in which decisions concerning the relationship of such activities to banking can be determined in each case on its merits.

Exemption (7) concerning labor, agricultural and horticultural organizations is closely akin to the similar exemption from Federal income taxes granted to such organizations. In order to be entitled to the exemption under this bill, no net income derived by any such organization can inure to the benefit of any individual. Such organizations must be formed primarily for the betterment of the working conditions of their members, in the case of labor organizations, and for the improvement in grade of agricultural or horticultural products in the case of agricultural or horticultural organizations. As in the case of the Federal income tax exemption, such agricultural and horticultural organizations as county fairs, quasi-public in nature, that are designed to encourage better products through a system of awards, would qualify for exemption under this bill. However, the growing of agricultural or horticultural products for profit by an agricultural or horticultural organization would not entitle such organization to the benefits of exemption from the divestment features of this bill.

The seven specific classes of exemption from the divestment requirements of the bill do not excuse those exempted from compliance with the remaining provisions of the bill. Such exempted organizations or companies will be required to register under the bill with the Federal Reserve Board and to obtain the approval of that Board in the event the organization or company wishes to acquire additional voting shares or assets of any bank, if such approval is otherwise required under the bill for bank holding companies.

Your committee holds the opinion that bank holding companies should confine their activities to the control and management of banks and activities closely related to banking. They should not combine management and control of banking activities with manage-

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ment and control of nonbanking activities. The divestment requirements in this bill are designed to remove the danger that a bank holding company might misuse or abuse the resources of a bank it controls in order to gain an advantage in the operation of the nonbanking activities it controls.

The committee gave consideration to a suggestion that present bank holding companies be allowed to retain their existing nonbanking assets and that the bill merely prohibit such companies from acquiring additional nonbanking assets. However, the committee believes that to adopt this course of action would give an unfair competitive advantage to existing bank holding companies over bank holding companies which might be formed in the future consistent with the provisions of this bill. Your committee believes that in general all bank holding companies should be required to observe the same ground rules concerning formation and operation, insofar as Federal legislation is concerned.

Administration

This bill centralizes Federal administrative control under the bill in the Board of Governors of the Federal Reserve System. It requires that each bank holding company, as defined in the bill, register with the Board within 180 days after the passage of the bill, or within 180 days after becoming a bank holding company, whichever is later. Registration forms prescribed by the Federal Reserve Board are to require information deemed appropriate by the Board with respect to the financial history and condition of the registering bank holding company and the banks it controls, information concerning the operation and management of such company and banks, the relationships of such company with banks and other organizations, and similar matters appropriate to carry out the purposes of the bill. Discretion is given to the Board to extend the time within which a bank holding company must register and file the required information.

The Federal Reserve Board is granted authority to issue appropriate regulations and orders in order to carry out the purposes of the bill and to prevent evasion of its provisions. The Federal Reserve Board is also empowered to require reports under oath so that it may be informed as to compliance with the provisions of the bill and regulations and orders issued in accordance with its provisions. The Board is expressly authorized to make examinations of each bank holding company and each of its subsidiaries at the expense of the holding company. In order to prevent unnecessary duplication, the bill requires the Board, in administering the provisions of the bill, as far as possible, to make use of examination reports made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the appropriate State bank supervisory authority.

The bill further requires the Board to submit to the Congress, within 2 years after the passage of the bill, a report of the results of the administration of the provisions of the bill, stating any substantial difficulties encountered and any recommendations for changes in the law which the Board deems advisable. Following the date of submission of the original report, the Federal Reserve Board is required thereafter to submit an annual report of the same nature. In view of the complexities which may be encountered in untangling the operations of bank holding companies in order to comply with the

provisions of the bill, your committee is of the opinion that the Board should be allowed a 2-year period within which to prepare and submit its report to the Congress.

Prohibition of Upstream or Horizontal Borrowing

Your committee received testimony to the effect that one of the dangers inherent in the bank holding company system is that the parent company may take undue advantage of the resources of its subsidiary banks. To prevent that situation from arising, the bill prohibits in general the borrowing of subsidary bank funds by a bank holding company or by another subsidiary in the bank holding company system. The bill does not prohibit the borrowing of funds by any subsidiary in the system from the parent bank holding company. Such downstream financing is one of the beneficial advantages cited to your committee in the use of the bank holding system technique. Downstream financing enables the bank holding company to draw on the equity capital of its shareholders and its own operating funds in order to strengthen the financial condition of any one or more of its subsidiaries. In the past, this has operated not only to the advantage of the bank holding company system itself, but also to the advantage of shareholders and depositors of the subsidiary bank so assisted and the public served by the subsidiary bank.

In particular, the bill makes it unlawful for a bank after the passage of the bill:

(1) To invest its funds in the capital stock, bonds, debentures or other obligations of its parent bank holding company or of any other subsidiary within the bank holding company system;

(2) To accept the capital stock, bonds, debentures or other obligations of its parent bank holding company or of any other subsidiary within the bank holding company system, as collateral security for advances made to any person or any company (except that this does not prohibit the acceptance of such securities as security for previously contracted debts, as long as the collateral is not held by the bank for more than 2 years);

(3) To purchase securities, other assets or obligations, under a repurchase agreement either from its parent bank holding company or from any other subsidiary within the bank holding company system; and

(4) To make any loan, discount or extension of credit to its parent bank holding company or to another subsidiary within the bank holding company system.

The bill makes it clear that its provisions do not prohibit noninterest bearing deposits to be made to the credit of a bank, nor do they prohibit giving immediate credit to a bank on uncollected items received in the ordinary course of business.

The bill provides three classes of exemptions from the provisions concerning borrowing from a subsidiary bank. These provide that the upstream and horizontal borrowing restrictions do not apply:

(1) To the capital stock, bonds, debentures, or other obligations of a company engaged in holding bank properties, a safe deposit business, or a bank servicing business of the nature described in section 4 (c) (1) of the bill;

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(2) To any company which became a subsidiary due to a bona fide *debt to the bank contracted before it became a subsidiary; or*

(3) To any company that became a subsidiary due to the ownership or control of its voting shares by the bank in a fiduciary capacity (unless the shares are held for the benefit of a majority of the bank's stockholders).

Tax Relief for Distributions Made

H. R. 6227, as passed by the House of Representatives, would add a new part VIII to subchapter O of the Internal Revenue Code of 1954. Under this new part, tax relief is accorded to distributions made pursuant to the provisions of this bill within the period prescribed therein. Your committee has adopted the tax provisions contained in the House bill with certain technical changes.

In general, a corporation which comes within the terms of the act as a bank holding company is given its choice of two alternative routes (that is, to remain a bank holding company, or to dispose of its interests in banks).

If the corporation decides to remain a bank holding company subject to the supervision of the Federal Reserve Board, it may distribute any "prohibited property," which the Board certifies is necessary or appropriate to comply with the act, to its shareholders without the recognition of gain by the shareholders on the distribution. For this purpose "prohibited property," in general, means stock, securities and other obligations, or other assets of nonbanking businesses to the extent the bank holding company is required to divest itself of such assets under section 4 (a) of the bill. The term, however, does not include cash, Government bonds, or certain short-term obligations. In the ordinary case cash and cash equivalents, such as Government bonds and short-term obligations, will not come within section 4 (a) of the bill as property which must be disposed of by the bank holding company. It is believed desirable, however, to expressly exclude cash, etc., from the definition of "prohibited property," since a similar exclusion is contained in the comparable provisions of part VI of subchapter O, relating to exchanges in obedience to SEC orders.

With respect to the distributing corporation, the usual provisions of the Internal Revenue Code of 1954 apply. Under these provisions, gain generally is not recognized to the distributing corporation except under unusual circumstances such as the distribution of LIFO inventory, the distribution of property subject to a liability in excess of the adjusted basis, or the distribution of certain installment obligations.

The distribution of "prohibited property" may be made either directly to the shareholders of the corporation which is a bank holding company or may be transferred to a wholly owned subsidiary expressly created for purposes of receiving the prohibited property. The stock of the subsidiary must be immediately distributed to the shareholders of the corporation which is a bank holding company if the distribution is to be made under this bill without the recognition of gain to the shareholders.

If a corporation which qualifies as a bank holding company under the act chooses the second alternative route, it may distribute to its shareholders any bank stock or other property of a kind which causes it to be a bank holding company, without the recognition of gain to

the recipient stockholders. The Board must certify, however, that distribution of property of that kind is necessary or appropriate to effectuate the policies of the bill. In such a case, the corporation may, for example, distribute to its shareholders all of its shares of bank stock without the recognition of gain even though it would be possible to retain shares of stock in one bank without being classified as a bank holding company. Your committee believes that this treatment is necessary because a corporation which is compelled to divest itself of part of its bank stock by reason of the bill may wish to distribute all of its shares of bank stock, so that no possibility will exist that it will be classified as a bank holding company in the future.

Your committee contemplates that the Federal Reserve Board in the discharge of its functions in making certifications that exchanges and distributions are necessary or appropriate to effectuate the purposes of the bill will carefully scrutinize the facts and circumstances in each case to prevent abuses and will cooperate fully with the Treasury Department to this end. Although the time of recognition of gain may be legitimately shifted under the provisions of this part, nothing in these provisions is to be construed or applied in such manner as to permit tax evasion or sham transactions entered into for avoiding tax.

Your committee has restricted the nonrecognition treatment described above the property which was owned on May 15, 1955. This restriction is deemed necessary to prevent corporations from purchasing interests in banks or other property in order that their shareholders may get the benefit of the tax treatment provided in the bill. The restriction would not apply, however, if the property was received in a transaction in which gain was not recognized because of the general rules described above. For example, if prohibited property was distributed by a subsidiary to its parent in a corporate chain without recognition of gain to the parent by reason of these provisions, the parent, in turn, may distribute the property to its own shareholders without recognition of gain under a certification by the Board, even though the property was acquired by the parent after May 15, 1955. Similarly, the May 15, 1955, cutoff date is not applicable where the prohibited property or bank stock (or other similar property) certified by the Board is transferred to a wholly owned subsidiary created for that purpose and the stock of the subsidiary is immediately distributed by the qualified bank holding corporation to its shareholders.

As in the case of the first alternative route, nonrecognition treatment is available whether the bank stock or other similar property certified by the Board is distributed directly to shareholders or whether it is first transferred to a wholly owned subsidiary expressly created for that purpose and the stock of the subsidiary is then immediately distributed to the shareholders of the parent.

To prevent certain tax avoidance possibilities that might otherwise exist, your committee's bill does not extend nonrecognition treatment, under the general rules described above, to any portion of a distribution attributable to a contribution to the capital of any corporation where the contribution is made after May 15, 1955. This restriction applies whether or not the contribution to capital is made by a shareholder of the corporation receiving such contribution. In the case of a contribution to the capital of a bank, however, the limitation does not

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apply if it is determined that avoidance of Federal income tax was not a principal purpose of the contribution.

Where the nonrecognition treatment has been extended to "prohibited property" which has been distributed by the corporation which is a bank holding company, a final certification must be obtained from the Board that the corporation has divested itself of all property necessary for compliance with the bill within the statutory period permitted for divestment. If this final certification is not obtained, the transactions previously permitted to be made without recognition of gain are reopened and tax may be imposed in such cases. For this purpose the statute of limitations on assessment of a deficiency resulting solely from the distribution of prohibited property which has been certified by the Board under section 1101 (a) does not expire until 5 years after the corporation gives notification that the period prescribed in section 4 (a) of the bill has expired.

A similar final certification is required where nonrecognition treatment has been originally accorded to the distribution of bank stock or similar property of a kind which the Board has certified as necessary so that the corporation will cease to be a bank holding company. In this case the tax provisions of the bill provide that the Board must give a final certification that the corporation has ceased to be a bank holding company within 2 years after the date of enactment of the bill or 2 years after the date on which the corporation becomes a bank holding company, whichever is later, unless the time has been extended by the Board for 1-year renewals not to exceed 5 years from the date of enactment of the bill or the date on which the corporation becomes a bank holding company, whichever is later. The statutory period for the assessment of a deficiency resulting solely from such distribution is extended in the same manner as in the case of the distribution of prohibited property.

The basis of stock or other property received by a distributee without recognition of gain under the provisions of the bill is determined by allocating the adjusted basis of the stock with respect to which the distribution was made between such stock and the property so distributed. This rule is similar to the general rule for allocation of basis in the case of a stock dividend. The bill provides that the allocation shall be made under regulations provided by the Secretary or his delegate.

Penalties

The bill provides adequate penalties for violation of its provisions, after conviction. In particular, any company convicted of willful violation of any provision of the bill or any regulation or order issued by the Federal Reserve Board pursuant to its provisions is subject to a fine of not more than $1,000 a day for each day during which the violation continues. Any individual convicted of willful participation in a violation of any provision of the bill is subject to a fine of not more than $10,000 or imprisonment for not more than 1 year, or both. Every officer, director, agent and employee of a bank holding company is made subject to the same penalties for false entries in any book, report, or statement of the bank holding company as apply to corresponding officials and employees of member banks of the Federal Reserve System for false entries in any books, reports, or statements of such member banks under section 1005 of title 18 of the United

States Code. This section of the code provides for a maximum fine of $5,000 or a maximum term of imprisonment for not more than 5 years, or both.

Saving Provision

The bill provides that none of its provisions are to be construed as approving any act, action or conduct in violation of existing law. It also provides that nothing in the bill shall constitute a defense to any action, suit, or proceeding pending or later instituted on account of any prohibited antitrust or monopolistic act, action or conduct. In the opinion of your committee, approvals granted and action permitted under the provisions of this bill are not to supersede the provisions of other Federal laws, particularly those designed to control monopoly or break up trusts. For example, the Clayton Act has been judicially determined to apply to banks. Under the provisions of that act, the Federal Reserve Board has an administrative role to play in determining whether banks comply with the requirements of the Clayton Act. Under the provisions of this bill, any action taken by the Federal Reserve Board in accordance with its terms is not to interfere in any manner with the performance by the Board of such functions as may be assigned to it under the Clayton Act.

Conclusion

As previously outlined in this report, your committee has been giving consideration to this matter for several years. In its opinion the present bill, properly administered, will safeguard the interests of the public in the formation and operation of bank holding companies. It represents a compromise designed to meet acceptance of proponents of this type of legislation, while at the same time being fully fair to the companies to which the provisions of the bill will apply. Exemptions from its provisions have been kept to a minimum. Under its terms, the operations of bank holding companies will not be prohibited, but they will be confined to banking activities and regulated in the public interest. In view of the lack of adequate legislation concerning the formation and operation of bank holding companies, your committee strongly urges the passage of this bill. Perfecting amendments may then be considered upon their merits by any subsequent Congress. Proper observance of the Congress' duty to the citizens of this Nation demands the enactment of appropriate legislation in this field.

Section-by-Section Analysis of the Bill

Section 1.—This section provides that this act may be cited as the Bank Holding Company Act of 1955.

Section 2.—This section defines the terms used in the bill.

Subsection (a) defines the term "bank holding company" to mean (1) any company which directly or indirectly owns or controls 25 percent or more of the voting shares of 2 or more banks or of a company which is or becomes a bank holding company by virtue of this act; or (2) any company controlling the election of a majority of the directors or 2 or more banks; or (3) any company for whose shareholders trustees hold 25 percent or more of stock of 2 or more banks or of

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bank holding company. A successor to any such bank holding company is deemed to be a bank holding company as of the date the predecessor company became a bank holding company. Excluded from the definition are (*a*) any bank controlling shares in a fiduciary capacity (unless controlled for benefit of the bank's shareholders); (*b*) any company or affiliate registered under Investment Company Act of 1940, prior to May 15, 1955, unless it owns 25 percent of shares of 2 or more banks; (*c*) any company engaged in underwriting securities; and (*d*) any company formed for the purpose of soliciting proxies.

Subsection (b) defines the term "company" to include any corporation, business trust, association, or similar organization. However, (1) any company the majority of the shares of which are owned by the Federal Government or by any State, (2) any nonprofit religious, charitable, or educational organization, and (3) any partnership—are excluded from the definition.

Subsection (c) defines the term "bank" to include any national or State bank, savings bank or trust company, but excludes any organization which does not do business within the United States. The subsection also defines the terms "State member bank" and "district bank."

Subsection (d) defines a "subsidiary" of a specified bank holding company in terms of the tests applicable to a bank holding company.

Subsection (e) defines the term "successor" and gives the Board of Governors of the Federal Reserve System the right by regulation to further define the term "successor" to the extent necessary to prevent evasion of the purposes of the act.

Subsection (f) makes clear that where the term "Board" is used in the act the reference is to the Board of Governors of the Federal Reserve System.

Section 3.—The provisions of this section relate to future acquisitions of bank shares or bank assets by bank holding companies or by companies which thereby would become bank holding companies and to the merger or consolidation of bank holding companies.

Subsection (a) makes it unlawful except with prior Board approval (1) for a company to become a bank holding company; (2) for a bank holding company or subsidiary to acquire more than 5 percent of the voting shares of any bank; (3) for a bank holding company or subsidiary, other than a bank, to acquire substantially all the assets of a bank; or (4) for a bank holding company to merge or consolidate with any other bank holding company. This prohibition does not apply to (*a*) any bank holding company, which is a bank acquiring shares in a fiduciary capacity (unless for benefit of its own shareholders) or in collecting debt (but must divest in 2 years), and (*b*) any bank holding company, which is a bank acquiring additional shares in a bank of which it owns a majority of the voting shares.

Subsection (b) provides that 30 days before approving any acquisition, merger or consolidation, the Board shall notify: (i) Comptroller of the Currency if bank to be acquired is a national or District bank; (ii) State supervisory authority if bank being acquired is a State bank. If such notified authority disapproves it in writing within 30 days, the Board will hold a hearing to grant or deny the application.

Subsection (c) sets forth the standards to be followed by the Board in granting or denying approval including (1) bank holding company's and bank's financial history and conditions; (2) prospects; (3) man-

agement; (4) convenience, needs, and welfare of area concerned; and (5) sound banking, public interest, and bank competition.

Section 4.—This section relates to bank holding company interests in nonbanking organizations and provides for separation of banking and nonbanking interests.

Subsection (a) prohibits a bank holding company from acquiring or retaining voting shares of any nonbank company or engaging in a business other than (1) banking, (2) managing or controlling banks, or (3) furnishing services to or providing services for a subsidiary bank. Divestment of nonbank business is required within 2 years after the date of this act or from date of becoming a bank holding company, whichever is later. The Board may extend this time up to not more than 5 years.

Subsection (b) prohibits a bank holding company after 2 years from date of enactment from (1) making any statement on its shares that they represent shares of any other company except a bank or a bank holding company, or (2) conditioning in any manner ownership, sale, or transfer of its shares upon the ownership, sale or transfer of shares of any other company except a bank or a bank holding company.

Subsection (c) provides appropriate exemptions to the blanket prohibitions on bank holding company investments or activities set forth in subsection (a).

Paragraph (1) exempts investments by a bank holding company in companies obviously incidental to the business of banking, such as holding bank premises, conducting a safe deposit business, or providing services such as auditing, appraisal, and investment counsel, or in liquidating assets acquired from the bank holding company or its subsidiaries.

Paragraph (2) exempts for a 2-year period investments acquired by a bank holding company which is a bank, in satisfaction of a debt previously contracted.

Paragraph (3) exempts for a 2-year period investments acquired by a bank holding company from any subsidiary which is requested to dispose of such investment by a Federal or State examining authority.

Paragraph (4) exempts investments held by a bank (which is a bank holding company) in a fiduciary capacity, and investments eligible for national bank investment under section 5136 of the Revised Statutes.

Paragraph (5) exempts limited general investments of a bank holding company from the investment prohibitions of the act. A bank holding company may own investments in any company provided such investment does not include more than 5 percent of the outstanding voting securities of such company and provided the value of the investment does not exceed 5 percent of the total assets of the holding company.

Paragraph (6) authorizes the Board to exempt shares of any company all the activities of which are of a financial, fiduciary, or insurance nature and are determined to be so closely related to the business of banking as to be a proper incident thereto.

Paragraph (7) exempts any bank holding company which is a labor, agricultural or horticultural organization.

Section 5.—This section sets forth powers and duties with respect to the registration, making of reports and examination of bank holding companies.

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Subsection (a) requires bank holding companies to register and file requisite information with the Board within a period of 180 days and grants the Board the right to extend such period.

Subsection (b) authorizes the Board to issue regulations and orders necessary in administration of the act.

Subsection (c) gives the Board authority to require reports from and make examinations of bank holding companies and their subsidiaries. To avoid duplication of effort, use, so far as possible, will be made of examination reports of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or appropriate State bank supervisory authorities.

Subsection (d) requires the Board within 2 years and annually thereafter to report to the Congress on operations under the act and to make any recommendations as to changes in the law which appear desirable to the Board.

Section 6.—This section prohibits a bank subsidiary from investing any of its funds in or lending any of its funds to its parent bank holding company or subsidiaries thereof and the subsidiary bank may not accept the securities of its parent bank holding company or subsidiaries thereof as collateral for any loan except for debts previously contracted. The subsidiary bank may not purchase assets or securities under a repurchase agreement from its parent holding company or from any of the subsidiaries of that holding company. Routine banking transactions between subsidiary banks are not treated as extensions of credit and do not fall within the prohibitions of this section. Also exempted from the self-dealing prohibitions of this section are securities of (1) a company described in section 6 (c) (1) (activities incidental to bank operations), (2) a company the subsidiary status of which arises out of a previously contracted bona fide debt, or (3) a company the subsidiary status of which arises through ownership of securities in a fiduciary capacity, except where such ownership is for the benefit of all or a majority of the stockholders of the bank.

Section 7.—This section makes clear that there is reservation of the rights of any State for exercise of such powers as it has or may hereafter have with respect to banks, bank holding companies, and the subsidiaries thereof in a manner more restrictive than the provisions of this bill.

Section 8.—This section provides penalties for willful violation of the act or any regulations or orders issued by the Board pursuant thereto. Upon conviction a company may be fined $1,000 for each day the violation continues and an individual upon conviction may be subjected to a $10,000 fine or 1 year imprisonment or both. Officers of employees of a bank holding company are made subject to the same penalties for making false entries in books, reports, or statements that are applicable to officers or employees of Federal Reserve member banks ($5,000 fine or 5 years' imprisonment or both).

Section 9.—This section provides that any person aggrieved by an order of the Board may obtain a judicial review of such order in the United States Circuit Court of Appeals. The findings of the Board as to the facts shall be conclusive, if supported by substantial evidence.

Section 10.—This section amends subchapter O of chapter 1 of the Internal Revenue Code of 1954 by adding a new part VIII. This part VIII specifies the extent to which (during a transition period

after the enactment of the bill) gain will not be recognized upon receipt of property by a shareholder of a bank holding company, if such distribution is made pursuant to a certification by the Board of Governors of the Federal Reserve System that such distribution is necessary or appropriate to effectuate the Bank Holding Company Act of 1955. The provisions of the new part VIII are restricted by their own terms to the gain directly attributable to the receipt of property in the distributions specifically described.

The rules contained in part VIII are in addition to the other provisions of subtitle A of the Internal Revenue Code of 1954 (such as provisions relating to the recognition or nonrecognition of gain to a corporation making distributions, the provisions under which tax-free reorganizations may be effectuated, etc.). Many of these other provisions are contained in subchapter C of chapter 1 of such code (relating to corporate distributions and reorganizations). The provisions of part VIII supersede the other provisions of chapter 1 only in the cases qualifying under part VIII, and in those cases only to the extent specific provision is contained in part VIII.

Your committee has adopted the tax provisions contained in the House bill with certain technical changes.

Section 1101 sets forth the conditions for nonrecognition of gain attributable to distributions of property by a qualified bank holding corporation when received by the shareholder with respect to his stock in such corporation. In addition rules are provided as to the date the qualified bank holding corporation must have acquired the property before it can be distributed with no gain recognized to its shareholders as a result of the distribution. This section also prescribes certain conditions which must be fulfilled before any such distributions of property will obtain the nonrecognition of gain benefits of its provisions.

Subsection (a) of section 1101 provides that a distribution of prohibited property by a qualified bank holding corporation with respect to its stock and without the surrender by the shareholder of any stock or securities in such corporation will not result in any gain being recognized on the receipt of such property by the shareholder if the Board has, before the distribution, certified that the distribution of such property is necessary or appropriate to carry out the first sentence of section 6 (a) of the Bank Holding Company Act of 1955. On the date of distribution the distributing corporation must have been a qualified bank holding corporation. The first sentence of section 6 (a) provides in general that it shall be unlawful for any bank holding company, after 2 years from the effective date of the Bank Holding Company Act of 1955, to own any shares or other securities or obligations of any company other than a bank or to engage in any business other than that of banking, or of managing or controlling banks, or of the kind of businesses enumerated in section 6 (c) (1) of the act. However, such section 6 (c) sets forth certain exceptions and permits the holding by a bank holding company of certain types of property.

Subsection (b) of section 1101 applies to a distribution of property by a qualified bank holding corporation, with respect to its stock, to a shareholder without the surrender by the shareholder of stock or securities in such corporation where the Board has before the distribution certified that (1) such property is of a kind which causes such

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corporation to be a bank holding company, (2) the disposition of property of that kind is necessary to enable such corporation to cease being a bank holding company, and (3) the distribution is necessary or appropriate to effectuate the policies of the Bank Holding Company Act of 1955. In the case of a distribution falling within subsection (b), no gain to the shareholder upon the receipt of such property is to be recognized. Property which is intended to be covered by subsection (b) of section 1101 is that property or properties which is of a kind which causes a company to be a bank holding company within the provisions of section 3 (a) of the Bank Holding Company Act of 1955. Thus, assuming that all the conditions of this part are met, a qualified bank holding corporation may distribute to its shareholders without the recognition of gain to them upon such distribution, part or all of the voting shares of one or more of the banks the ownership of which voting shares was the basis upon which such corporation is a bank holding company, if the Board makes the certification required by paragraph (2) of subsection (b). Furthermore, if any corporation was held by the Board to be a bank holding company under clause 2 of section 3 (a) of the Bank Holding Company Act, and if such corporation is a qualified bank holding corporation as required by this part, such corporation would be permitted to distribute whatever property it owned upon the basis of which such determination was made by the Board to its shareholders without recognition of the gain on the distribution, if the Board certifies in accord with paragraph (2).

A qualified bank holding corporation which distributes prohibited property with respect to which the Board has certified as required by paragraph (2) of subsection (a), may not have any distributions qualify under subsection (b). If the first distribution under this part falls under subsection (b), no distribution may qualify under subsection (a). It is the intent of these subsections that a qualified bank holding corporation must determine whether it will dispose of prohibited property and remain a bank holding company or whether it will dispose of the property upon the basis of which the corporation is determined to be a bank holding company.

Subsection (c) of section 1101 is a limitation upon the application of subsections (a) and (b). Subparagraph (A) of paragraph (1) of subsection (c) specifically excludes from the application of subsections (a) and (b) of section 1101 any property which a qualified bank holding corporation acquired after May 15, 1955, except to the extent such corporation received such property (even though subsequent to May 15, 1955) and gain was not recognized by reason of subsection (a) or (b), or unless the property was received by the corporation in exchange for all of its stock in an exchange to which paragraph (2) or (3) of subsection (c) applies.

Under subparagraph (B) of paragraph (1), neither subsection (a) nor (b) of section 1101 is applicable to the distribution by a qualified bank holding corporation of property which was acquired by such corporation in a distribution with respect to stock acquired by it after May 15, 1955, unless such stock was acquired by it (1) in a distribution (with respect to stock held by it on May 15, 1955, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b) of section 1101, or (2) in exchange

for all of its stock in an exchange meeting the requirements of section 1101 (c) (2) or (3).

Paragraph (2) of subsection (c) of section 1101 is an exception to the general rule of paragraph (1) of subsection (c) that subsections (a) and (b) do not apply to any property acquired by the distributing corporation after May 15, 1955. Under paragraph (2) if a qualified bank holding corporation exchanges solely property which, under subsection (a), such corporation could distribute directly to its shareholders without the recognition of gain to such shareholders, for all of the stock of a second corporation created and availed of solely for the purpose of receiving such property, and immediately after the exchange, the qualified bank holding corporation distributes all of such stock to its shareholders with respect to its stock, then all of the stock of the second corporation may be distributed to the shareholders of such qualified bank holding corporation without recognition of gain. However, prior to such exchange the Board must certify that the exchange and distribution are necessary or appropriate to effectuate the first sentence of section 6 (a) of the Bank Holding Company Act of 1955.

Paragraph (3) of subsection (c) of section 1101 is another exception to the general rule of paragraph (1) of subsection (c) that subsections (a) and (b) do not apply to any property acquired by the distributing corporation after May 15, 1955. Under paragraph (3) if any qualified bank holding corporation exchanges solely property which, under subsection (b), such corporation could distribute directly to its shareholders without the recognition of gain to such shareholders, for all of the stock of a second corporation created and availed of solely for the purpose of receiving such property and immediately after the exchange, the qualified bank holding corporation distributes all of such stock to its shareholders with respect to its stock, then all of the stock of the second corporation may be distributed to the shareholders of such qualified bank holding corporation without the recognition of gain. However, prior to such exchange the Board must have certified that such property is of a kind which causes such corporation to be a bank holding company, that the disposition of property of that kind is necessary to enable such corporation to cease being a bank holding company, and that the exchange and distribution are necessary or appropriate to effectuate the policies of the Bank Holding Company Act of 1955.

Under subsection (d) of section 1101 the nonrecognition of gain provided by subsection (a) or (b) shall not apply to that portion of any distribution which is attributable to any contribution to capital of any corporation made after May 15, 1955. The portion of any distribution which is attributable to a contribution to capital depends upon the particular facts and circumstances of each case.

The preceding paragraph may be illustrated by the following examples. (1) Assume that corporation A (a qualified bank holding corporation) owns all of the stock of corporation X (such stock being property falling within the provisions of subsec. (a) of sec. 1101). Assume further that corporation A, after May 15, 1955, makes a contribution to the capital of corporation X in the amount of $50,000. Thereafter, corporation A makes a distribution to which subsection (a) of section 1101 applies of the stock of corporation X to the share-

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holders of corporation A. Under subsection (d) the nonrecognition of gain provided by subsection (a) does not apply to that portion of the distribution which is attributable to the contribution of capital, that is, $50,000. The amount of the distribution to the extent of the contribution to capital, $50,000, is a distribution subject to the provisions of section 301 of the Internal Revenue Code of 1954. (2) The facts are the same as in example (1) above, except that the value of the portion of the distribution which is attributable to the contribution to capital, at the time of the distribution, is less than $50,000. The value of that portion of the distribution which is attributable to the contribution to capital of $50,000 is a distribution subject to the provisions of section 301 of the Internal Revenue Code of 1954.

Paragraph (2) of subsection (d), however, provides an exception to the rule established in paragraph (1). Paragraph (2) provides that paragraph (1) shall not apply with respect to any contribution to capital of a bank if the Secretary or his delegate determines that the avoidance of Federal income tax was not one of the principal purposes for making such contributions.

Subsection (e) of section 1101 provides that neither subsection (a) nor subsection (b) shall apply with respect to any distribution by a corporation unless the Board makes the certification required by the subsection.

Paragraph (1) of subsection (e) relates to certification with respect to distributions falling within subsection (a). It provides that subsection (a) shall not apply to any such distribution unless the Board certifies that, before the expiration of the period permitted under section 6 (a) of the Bank Holding Company Act of 1955 (including any extensions thereof granted to such corporation under such section 6 (a)), the corporation has disposed of all the property, the disposition of which is necessary or appropriate to effectuate the first sentence of such section 6 (a) (or would have been so necessary or appropriate if the corporation had continued to be a bank holding company). In order that subsection (a) of section 1101 is to apply to distributions of prohibited property by a qualified bank holding corporation, it is essential that such corporation dispose of all of the property which it is required to dispose of by reason of the Bank Holding Company Act of 1955, within the period (including extensions thereof) specified in section 6 (a) of such act. During the period during which such corporation is required to dispose of all such property, distributions of prohibited property are to be considered as being within subsection (a) of section 1101, if other requirements of this part are met. Thus, no gain would be recognized to shareholders on distributions (if such distributions would otherwise qualify for the benefits of this part) during such period. If, at the close of such period, the corporation has disposed of all of the property which it is required to dispose of by the Board and the Board has made the certification required under subsection (e) of section 1101, subsection (a) of section 1101 will apply to distributions of prohibited property. However, if, at the close of such period, the corporation has not disposed of all of the property the disposition of which is necessary or appropriate to effectuate the first sentence of section 6 (a) of the Bank Holding Company Act of 1955, then subsection (a) of section 1101 will not apply to any distributions of prohibited property by the corporation. Thus, in a case where the provisions of subsection (e) (1) are not met, the

tax treatment of any distribution of prohibited property by a qualified bank holding corporation to its shareholders is governed by the provisions of other sections of the Internal Revenue Code of 1954 applicable thereto.

Paragraph (2) of subsection (e) of section 1101 is applicable to distributions falling within subsection (b) of section 1101. Subparagraph (A) provides that subsection (b) shall not apply unless the Board certifies that the corporation has ceased to be a bank holding company before the expiration of the period specified in subparagraph (B). Under the House bill the period specified in paragraph (B) was 2 years after the date of enactment. Your committee has modified subparagraph (B) to provide that the specified period expires 2 years after the enactment of this part or 2 years after the corporation becomes a bank holding company, whichever is later. Under subparagraph (B) of the House bill the Board is authorized on the application of any qualified bank holding corporation to extend such period from time to time with respect to such corporation for not more than 1 year at a time if, in its judgment, such an extension would not be detrimental to the public interest, but such period might not be extended beyond the date 5 years after the date of enactment of this part. Your committee has modified this provision to provide that such period may not in any case be extended beyond the date 5 years after the date of enactment of this part or 5 years after the date on which the corporation becomes a bank holding company, whichever is later. The purpose of your committee's changes is to extend the specified periods in the case of corporations which become bank holding companies after the date of enactment of this part by reason of a distribution under section 1101. This treatment makes the specified periods uniform whether such a corporation chooses to distribute prohibited property or bank stock. In order that subsection (b) of section 1101 is to apply to distributions of property of a kind which causes a qualified bank holding corporation to be a bank holding company and the disposition of which is necessary to enable such corporation to cease being a bank holding company, it is essential that such corporation cease to be a bank holding company within the period (including extensions thereof) specified in subsection (e) (2) of section 1101. During the period during which such corporation disposes of property to enable it to cease being a bank holding company, distributions of such property are to be considered as being within subsection (b) of section 1101, if other requirements of this part are met. Thus, no gain would be recognized to shareholders on such distributions (if such distributions would otherwise qualify for the benefits of this part) during such period. If, at the close of such period specified in subsection (e) (2), the corporation has ceased to be a bank holding company, subsection (b) of section 1101 will apply to distributions of such property. However, if, at the close of such period, the corporation has not ceased being a bank holding company, then subsection (b) of section 1101 will not apply to any distributions of such property by the corporation. Thus, in a case where the provisions of subsection (e) (2) are not met, the tax treatment of any distributions of property of a kind which causes a qualified bank holding corporation to be a bank holding company to its shareholders is governed by the provisions of other sections of the Internal Revenue Code of 1954 applicable thereto.

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Section 1102 provides special rules for the application of this part.

Subsection (a) relates to the basis of property acquired in distributions under either subsection (a) or subsection (b) of section 1101. If gain is not recognized by reason of either of such subsections with respect to the receipt of any property, then the basis of such property and of the stock with respect to which it was distributed, shall, in the hands of the distributee, be determined by allocating the adjusted basis of such stock between such property and such stock. Such allocation shall be made under regulations prescribed by the Secretary or his delegate.

Subsection (b) of section 1102 of the House bill provided for the extension of the periods of limitation on the assessment and collection of deficiencies in tax arising from distributions to which subsection (a) or (b) of section 1101 apply. Your committee has revised this provision of the House bill in several respects: (1) it has eliminated the extension of the period under section 6502 relating to collection as unnecessary; (2) it has provided that the extension applies to distributions certified by the Board under subsection (a) or (b) of section 1101 in order to correct a technical defect; (3) it has provided that the notification by the corporation be in such manner and with such accompanying information as prescribed in regulations by the Secretary or his delegate; (4) it has provided for a 5-year period after the notification instead of a 1-year period; and (5) it has provided that the notification can only be made after the expiration of the period prescribed in section 6 (a) of the Bank Holding Company Act or section 1101 (e), whichever is applicable, instead of after a final certification by the Board. Accordingly, under subsection (b) of section 1102 of your committee's bill, the periods of limitation provided in section 6501 (relating to limitations on assessment) shall not expire, with respect to any deficiency (including interest and additions to the tax), resulting solely from the receipt of property by shareholders in a distribution by a qualified bank holding corporation which is certified by the Board under subsection (a) or (b) of section 1101, until 5 years after such corporation notifies the Secretary or his delegate (in such manner and with such accompanying information as the Secretary or his delegate may by regulations prescribe) that the period (including extensions thereof) prescribed in section 6 (a) of the Bank Holding Company Act, or section 1101 (e), whichever is applicable, has expired. Such assessment may be made notwithstanding any provisions of law or rule of law which would otherwise prevent such assessment.

Subsection (c) of section 1102 relates to allocation of earnings and profits. In case of any exchange described in section 1101 (c) (2) or (3), the earnings and profits of the corporation transferring the property shall be properly allocated between such corporation and the corporation receiving such property under regulations prescribed by the Secretary or his delegate.

Subsection (d) relates to itemization of property distributed. The Board is required in any certification under this part to make such specification and itemization of property as may be necessary to carry out the provisions of this part.

Section 1103 sets forth the definitions, for purposes of this part, of "bank holding company," "qualified bank holding corporation," "prohibited property," "nonexempt property," and "Board."

Subsection (a) of this section provides that the term "bank holding company" means a bank holding company as defined by section 3 of the Bank Holding Company Act of 1955.

Subsection (b) of this section defines the term "qualified bank holding corporation." Your committee has made a technical amendment to subsection (b) in order to make it clear that the tax provisions of this part apply to any corporation as defined in section 7701 (a) (3) of the Internal Revenue Code of 1954 if such corporation is a qualified bank holding corporation. In order for a corporation to be a qualified bank holding corporation, and therefore for its shareholders to receive the special tax treatment provided by this part, it must not only be a bank holding company but in addition, it must hold "prohibited property" as defined in subsection (c). For example, if the sole assets of corporation X consist of 25 percent of the voting shares of each of 2 banks, corporation X is not a qualified bank holding corporation.

In addition, to be a qualified bank holding corporation the prohibited property must have been acquired on or before May 15, 1955, by a corporation which is a bank holding company, or must have been acquired in a distribution to it by a qualified bank holding corporation with respect to which gain is not recognized by reason of section 1101 (a). Furthermore, a bank holding company which holds prohibited property acquired by it in exchange for all of its stock in an exchange described in section 1101 (c) (2) is a qualified bank holding corporation.

The preceding paragraph may be illustrated by the following examples. (1) If the sole assets of corporation X on May 15, 1955, consist of cash and 25 percent of the voting shares of each of 2 banks and on May 30, 1955, corporation X purchases nonbanking business assets, corporation X is not a qualified bank holding corporation. (2) The sole assets of corporation Y, on May 15, 1955, consist of 25 percent of the voting shares of each of 2 banks and 4 percent of the outstanding voting securities (the value of which is less than 5 percent of the value of corporation Y's total assets) of corporation Z, a qualified bank holding corporation. Corporation Z distributes nonbanking business assets to corporation Y which are prohibited property in the hands of corporation Y, in a distribution to which section 1101 (a) applies. Corporation Y becomes a qualified bank holding corporation by reason of the distribution by Z. (3) On May 15, 1955, corporation B owns all of the stock of corporation A, a qualified bank holding corporation on such date. Corporation B, a qualified bank holding corporation by virtue of its ownership of the stock of corporation A, transfers such stock to corporation C in an exchange meeting the requirements of section 1101 (c) (2). Corporation C is a qualified bank holding corporation.

Notwithstanding that a corporation meets the requirements of paragraph (1) of subsection (b), such corporation shall not be a qualified bank holding corporation unless it meets the additional requirements of subparagraphs (A), (B), and (C) of paragraph (2).

Subparagraph (A) of paragraph (2) provides that a bank holding company shall not be a qualified bank holding corporation unless such corporation would have been a bank holding company on May 15, 1955, if the Bank Holding Company Act of 1955 had been in effect on such date, or unless such corporation is a bank holding company determined solely by reference to the following: (1) Property

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acquired by such corporation on or before May 15, 1955; (2) property acquired by such corporation in a distribution by a qualified bank holding corporation to such corporation wherein gain was not recognized by reason of subsection (a) or (b) of section 1101; and (3) property acquired by such corporation in exchange for all of its stock in an exchange meeting the requirements of section 1101 (c) (2) or (3).

Thus, if on May 15, 1955, the sole assets of corporation X consist of cash and business assets and on May 30, 1955, corporation X acquires 25 percent of the voting shares of each of 2 banks for cash, then, by reason of subparagraph (A) of paragraph (2), corporation X, although a bank holding company, holding prohibited property acquired by it before May 15, 1955, is not a qualified bank holding corporation. An additional example of the application of subparagraph (A) of paragraph (2) is where corporation X is determined, by the Board, after May 15, 1955, to be a bank holding company by reason of clause (2) of section 3 (a) of the Bank Holding Company Act of 1955, solely by reference to (1) property acquired by such corporation on or before May 15, 1955, and (2) property acquired by it from a qualified bank holding corporation in a distribution in which gain to the distributee was not recognized by reason of subsection (a) or (b) of section 1101.

Except as explained in the next paragraph, subparagraph (B) of paragraph (2) provides that a bank holding company shall not be a qualified bank holding corporation by reason of either (1) the acquisition by such bank holding company of prohibited property after May 15, 1955, in a distribution from a qualified bank holding corporation to which section 1101 (a) is applicable or (2) the acquisition by such bank holding company (which company would not have been a bank holding company on May 15, 1955, if the Bank Holding Company Act of 1955 had been in effect on such date) of property described in clause (ii) of subparagraph (A) of paragraph (2). An example of the operation of the foregoing is where, on May 15, 1955, the sole assets of corporation Y consist of cash and 25 percent of the voting shares of each of two banks. On May 30, 1955, corporation Y purchases for cash 50 percent of the stock of corporation Z, a qualified bank holding corporation. Corporation Z distributes business assets to corporation Y in a distribution in which gain to corporation Y with respect to the receipt of such property was not recognized by reason of section 1101 (a). Corporation Y is not a qualified bank holding corporation since such property was acquired by corporation Y in a distribution with respect to stock acquired after May 15, 1955.

A bank holding company may be a qualified bank holding corporation by reason of the property described in the preceding paragraph if such property was acquired in a distribution with respect to stock which was acquired by such company (1) on or before May 15, 1955, (2) in a distribution (with respect to stock held by it on May 15, 1955, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b) of section 1101, or (3) in exchange for all of the stock of the bank holding company in an exchange meeting the requirements of section 1101 (c) (2) or (3).

Subparagraph (C) of paragraph (2) states that a corporation may not be treated as a qualified bank holding corporation unless the

Board certifies that it satisfies the requirements of subsection (b) of section 1103.

Subsection (c) of section 1103 defines the term "prohibited property." Such property is defined as property, other than nonexempt property, the disposition of which, in the case of any bank holding company, would be necessary or appropriate to effectuate the first sentence of section 6 (a) of the Bank Holding Company Act of 1955, if such company continued to be a bank holding company beyond the period (including any extensions thereof) specified in section 6 (a), in the case of distributions under section 1101 (a), or specified in section 1101 (e) (2) (B), in the case of distributions under section 1101 (b). The term "prohibited property" does not include shares, securities, or obligations of any company which are held by a bank holding company to the extent that the ownership by such bank holding company of such property is not prohibited by section 6 of such act by reason of subsection (c) (6) of such section.

Subsection (d) defines the term "nonexempt property," the distribution of which may not be accorded the tax treatment provided by this part.

Subsection (e) of this section states that the term "Board" means the Board of Governors of the Federal Reserve System.

Section 10 (b) amends table of parts of chapter 1, subchapter O of Internal Revenue Code of 1954 by adding "Part VIII. Distributions pursuant to Bank Holding Company Act of 1955."

Section 10 (c) makes these tax provisions in section 10 (a) apply to taxable years ending after the enactment of the act.

Section 11.—This section contains a savings clause to make clear that nothing in this act shall be construed as approving any act, action, or conduct in violation of existing law or constituting a defense in antitrust or monopolistic proceedings.

Section 12.—This section contains the usual separability clause for provisions of the act.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

Chapter I—Normal Taxes and Surtaxes

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SUBCHAPTER O—GAIN OR LOSS ON DISPOSITION OF PROPERTY

Part I. Determination of amount and recognition of gain or loss.
Part II. Basic rules of general application.
Part III. Common nontaxable exchanges.
Part IV. Special rules.
Part V. Changes to effectuate F. C. C. policy.
Part VI. Exchanges in obedience to S. E. C. orders.
Part VII. Wash sales of stock or securities.
Part VIII. Distributions pursuant to Bank Holding Company Act of 1955.

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PART VIII.—DISTRIBUTIONS PURSUANT TO BANK HOLDING COMPANY ACT OF 1955

Sec. 1101. Distributions pursuant to Bank Holding Company Act of 1955.
Sec. 1102. Special rules.
Sec. 1103. Definitions.

SEC. 1101. DISTRIBUTIONS PURSUANT TO BANK HOLDING COMPANY ACT OF 1955.

(a) DISTRIBUTIONS OF PROHIBITED PROPERTY.—If—

(1) a qualified bank holding corporation distributes (with respect to its stock) prohibited property to a shareholder, without the surrender by such shareholder of stock or securities in such corporation; and

(2) the Board has, before the distribution, certified that the distribution of such property is necessary or appropriate to effectuate the first sentence of section 4 (a) of the Bank Holding Company Act of 1955,

then no gain to the shareholder from the receipt of such property shall be recognized. This subsection shall not apply to any distribution by a corporation which has made any distribution pursuant to subsection (b).

(b) CORPORATION CEASING TO BE A BANK HOLDING COMPANY.—If—

(1) a qualified bank holding corporation distributes (with respect to its stock) property to a shareholder, without the surrender by such shareholder of stock or securities in such corporation; and

(2) the Board has, before the distribution, certified that (A) such property is of a kind which causes such corporation to be a bank holding company, (B) the disposition of property of that kind is necessary to enable such corporation to cease being a bank holding company, and (C) the distribution is necessary or appropriate to effectuate the policies of the Bank Holding Company Act of 1955,

then no gain to the shareholder from the receipt of such property shall be recognized. This subsection shall not apply to any distribution by a corporation which has made any distribution pursuant to subsection (a).

(c) PROPERTY ACQUIRED AFTER MAY 15, 1955.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), subsection (a) or (b) shall not apply to—

(A) any property acquired by the distributing corporation after May 15, 1955, unless (i) gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b), or (ii) such property was received by it in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies, or

(B) any property which was acquired by the distributing corporation in a distribution with respect to stock acquired by such corporation after May 15, 1955, unless such stock was acquired by such corporation (i) in a distribution (with respect to stock held by it on May 15, 1955, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b), or (ii) in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies.

(2) EXCHANGES INVOLVING PROHIBITED PROPERTY.—If—

(A) any qualified bank holding corporation exchanges (i) solely property which, under subsection (a), such corporation could distribute directly to its shareholders without the recognition of gain to such shareholders, for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property;

(B) immediately after the exchange, the qualified bank holding corporation distributes all of such stock to its shareholders with respect to its stock; and

(C) before such exchange, the Board has certified that the exchange and distribution are necessary or appropriate to effectutate the first sentence of section 4 (a) of the Bank Holding Company Act of 1955,

then paragraph (1) shall not apply with respect to such distribution.

(3) EXCHANGES INVOLVING INTERESTS IN BANKS.—If—

(A) any qualified bank holding corporation exchanges (i) solely property which, under subsection (b), such corporation could distribute directly to its shareholders without the recognition of gain to such shareholders, for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property;

(B) immediately after the exchange, the qualified bank holding corporation distributes all of such stock to its shareholders with respect to its stock; and

(C) before such exchange, the Board has certified—

(i) that such property is of a kind which causes such corporation to be a bank holding company;

(ii) that the disposition of property of that kind is necessary to enable such corporation to cease being a bank holding company; and

(iii) that the exchange and distribution are necessary or appropriate to effectuate the policies of the Bank Holding Company Act of 1955,

then paragraph (1) shall not apply with respect to such distribution.

(d) CERTAIN CONTRIBUTIONS TO CAPITAL AFTER MAY 15, 1955.—

(1) IN GENERAL.—The nonrecognition of gain provided by subsection (a) or (b) shall not apply to that portion of any distribution which is attributable to any contribution to the capital of any corporation made after May 15, 1955.

(2) SPECIAL RULE FOR CONTRIBUTION TO CAPITAL OF BANKS.—Paragraph (1) shall not apply with respect to any contribution to the capital of a bank, if the Secretary or his delegate determines that the avoidance of Federal income tax was not one of the principal purposes for the making of such contribution.

(e) FINAL CERTIFICATION.—

(1) FOR SUBSECTION (a).—Subsection (a) shall not apply with respect to any distribution by a corporation unless the Board certifies that, before the expiration of the period permitted under section 4 (a) of the Bank Holding Company Act of 1955 (including any extensions thereof granted to such corporation under such section 4 (a)), the corporation has disposed of all the property the disposition of which is necessary or appropriate to effectuate the first sentence of such section 4 (a) (or would have been so necessary or appropriate if the corporation had continued to be a bank holding company).

(2) FOR SUBSECTION (b).—

(A) Subsection (b) shall not apply with respect to any distribution by any corporation unless the Board certifies that, before the expiration of the period specified in subparagraph (B), the corporation has ceased to be a bank holding company.

(B) The period referred to in subparagraph (A) is the period which expires 2 years after the date of the enactment of this part or 2 years after the date on which the corporation becomes a bank holding company, whichever date is later. The Board is authorized, on application by any corporation, to extend such period from time to time with respect to such corporation for not more than 1 year at a time if, in its judgment, such an extension would not be detrimental to the public interest; except that such period may not in any case be extended beyond the date 5 years after the date of the enactment of this part or 5 years after the date on which the corporation becomes a bank holding company, whichever date is later.

SEC. 1102. SPECIAL RULES.

(a) BASIS OF PROPERTY ACQUIRED IN DISTRIBUTIONS.—If, by reason of section 1101, gain is not recognized with respect to the receipt of any property, then the basis of such property and of the stock with respect to which it is distributed shall, in the distributee's hands, be determined by allocating between such property and such stock the adjusted basis of such stock. Such allocation shall be made under regulations prescribed by the Secretary or his delegate.

(b) PERIODS OF LIMITATION.—The periods of limitation provided in section 6501 (relating to limitations on assessment and collections) shall not expire, with respect to any deficiency (including interest and additions to the tax) resulting solely from the receipt of property by shareholders in a distribution by a qualified bank holding corporation which is certified by the Board under subsection (a) or (b) of section 1101, until 5 years after such corporation notifies the Secretary or his delegate (in such manner and with such accompanying information as the Secretary or his delegate may by regulations prescribe) that the period (including extensions thereof) prescribed in section 4 (a) of the Bank Holding Company Act of 1955, or section 1101 (e), whichever is applicable, has expired; and such assessment may be made notwithstanding any provision of law or rule of law which would otherwise prevent such assessment.

(c) ALLOCATION OF EARNINGS AND PROFITS.—In the case of any exchange described in section 1101 (c) (2) or (3), the earnings and profits of the corporation transferring the property shall be properly allocated between such corporation and the corporation receiving such property under regulations prescribed by the Secretary or his delegate.

(d) ITEMIZATION OF PROPERTY.—In any certification under this part, the Board shall make such specification and itemization of property as may be necessary to carry out the provisions of this part.

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SEC. 1103. DEFINITIONS.

(a) BANK HOLDING COMPANY.—For purposes of this part, the term "bank holding company" has the meaning assigned to such term by section 2 of the Bank Holding Company Act of 1955.

(b) QUALIFIED BANK HOLDING CORPORATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this part the term "qualified bank holding corporation" means any corporation (as defined in section 7701 (a) (3)) which is a bank holding company and which holds prohibited property acquired by it—

(A) on or before May 15, 1955,

(B) in a distribution in which gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) of section 1101, or

(C) in exchange for all of its stock in an exchange described in section 1101 (c) (2).

(2) LIMITATIONS.—

(A) A bank holding company shall not be a qualified bank holding corporation, unless it would have been a bank holding company on May 15, 1955, if the Bank Holding Company Act of 1955 had been in effect on such date, or unless it is a bank holding company determined solely by referenc to—

(i) property acquired by it on or before May 15, 1955,

(ii) property acquired by it in a distribution in which gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b) of section 1101, and

(iii) property acquired by it in exchange for all of its stock in an exchange described in section 1101 (c) (2) or (3).

(B) A bank holding company shall not be a qualified bank holding corporation by reason of property described in subparagraph (B) of paragraph (1) or clause (ii) of subparagraph (A) of this paragraph, unless such property was acquired in a distribution with respect to stock, which stock was acquired by such bank holding company—

(i) on or before May 15, 1955,

(ii) in a distribution (with respect to stock held by it on May 15, 1955, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b) of section 1101, or

(iii) in exchange for all of its stock in an exchange described in section 1101 (c) (2) or (3).

(C) A corporation shall be treated as a qualified bank holding corporation only if the Board certifies that it satisfies the foregoing requirements of this subsection.

(c) PROHIBITED PROPERTY.—For purposes of this part, the term "prohibited property" means, in the case of any bank holding company, property (other than nonexempt property) the disposition of which would be necessary or appropriate to effectuate the first sentence of section 4 (a) of the Bank Holding Company Act of 1955 if such company continued to be a bank holding company beyond the period (including any extensions thereof) specified in such section 4 (a) or in section 1101 (e) (2) (B) of this part, as the case may be. The term "prohibited property" does not include shares, securities, or obligations of any company held by a bank holding company to the extent that the prohibitions of section 4 of the Bank Holding Company Act of 1955 do not apply to the ownership by such bank holding company of such property by reason of subsection (c) (5) of such section.

(d) NONEXEMPT PROPERTY.—For purposes of this part, the term "nonexempt property" means—

(1) obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding 24 months, exclusive of days of grace;

(2) securities issued by or guaranteed as to principal or interest by a government or subdivision thereof or by any instrumentality of a government or subdivision; or

(3) money, and the right to receive money not evidenced by a security or obligation (other than a security of obligation described in paragraph (1) or (2).

(e) BOARD.—For purposes of this part, the term "Board" means the Board of Governors of the Federal Reserve System.

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Calendar No. 1108

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1096

AMENDING JOINT RESOLUTION RELATING TO ESTABLISHMENT OF THE WOODROW WILSON CENTENNIAL CELEBRATION COMMISSION

JULY 25, 1955.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 6454]

The Committee on the Judiciary, to which was referred the bill (H. R. 6454) to amend the joint resolution of August 30, 1954, relating to the establishment of the Woodrow Wilson Centennial Celebration Commission, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to authorize additional appropriations to assist the Woodrow Wilson Centennial Celebration Commission to carry out its plans for the celebration in 1956 of the 100th anniversary of Woodrow Wilson's birth in Staunton, Va.

STATEMENT

Public Law 705 of the 83d Congress (68 Stat. 964, 965), approved August 30, 1954, established a Commission to be composed of 12 members to develop and execute plans for celebrating in 1956 the 100th anniversary of the birth of Woodrow Wilson in Staunton, Va. Pursuant to the provisions of that act, the President of the United States has appointed seven members of the Commission as follows:

1. Maj. Gen. Evarts W. Opie, Staunton, Va. (Chairman).
2. Arthur Sweetser, Washington, D. C.
3. Arthur Hayes Sulzberger, New York, N. Y.
4. Mrs. Em Bowles Alsop, Charles City, Va.
5. Robert W. Woodruff, Atlanta, Ga.
6. Bernard M. Baruch, New York, N. Y., and
7. David K. E. Bruce, Brookneal, Va.

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The President of the Senate has appointed two members of the Commission as follows:

1. Senator A. Willis Robertson, of Virginia, and
2. Senator H. Alexander Smith of New Jersey.

The Speaker of the House of Representatives has appointed two members of the Commission as follows:

1. Congressman Burr P. Harrison of Virginia, and
2. Congressman Peter Frelinghuysen, Jr., of New Jersey.

The 12th member, who is serving as executive officer pursuant to the Act establishing the Commission, is the Director of the National Park Service, Conrad L. Wirth.

At a public hearing conducted by the Standing Subcommittee on Charters, Holidays, and Celebrations of the Committee on the Judiciary held on June 30, 1955, Senator Robertson, of Virginia, and Mr. Conrad L. Wirth, executive officer of the Woodrow Wilson Centennial Celebration Commission, testified in favor of this proposed legislation.

The committee has been advised that the plans and programs that the Commission should undertake to carry out an effective program cannot be accomplished with the $10,000 previously appropriated in the 83d Congress.

The Commission, after careful study, has submitted to the committee a proposed budget calling for the appropriation of $41,500 in addition to the original $10,000 appropriated in the 83d Congress. The bill, as amended, would authorize such additional appropriation. The $41,500 budget is as follows: Personal services, $10,995; travel, $4,505; communication services, $1,000; printing and reproduction, $17,000; other contractual services, $7,000; supplies and materials, $1,000, making a total of $41,500. The State of Virginia is also developing an ambitious commemorative program to coordinate with the Federal Commission. Likewise, many schools and public and private groups throughout the country are planning celebrations next year. The Federal Commission assists and coordinates all these activities in addition to developing a program of its own.

The Committee on the Judiciary considers the work of this Commission a highly valuable public service and accordingly favorably reports H. R. 6454 without amendment.

Attached hereto is a letter addressed to Senator O'Mahoney, chairman of the subcommittee, from Conrad L. Wirth, executive officer, Woodrow Wilson Centennial Celebration Commission, urging favorable consideration of the proposed legislation.

DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, D. C., June 29, 1955.

Hon. JOSEPH C. O'MAHONEY,
Chairman, The Judiciary Subcommittee,
United States Senate, Washington, D. C.

MY DEAR SENATOR O'MAHONEY: You have requested a report on S. 2068, a bill to amend the joint resolution of August 30, 1954, relating to the establishment of the Woodrow Wilson Centennial Celebration Commission.

The purpose of the amendatory legislation is to remove the $10,000 limitation for expenditures by the Woodrow Wilson Centennial Celebration Commission in carrying out the purposes of the act approved August 30, 1954 (68 Stat. 964).

We recommend that S. 2068 be enacted.

The Woodrow Wilson Centennial Celebration Commission has been established and the following members appointed: Maj. Gen. E. Walton Opie, Chairman; Mr. Arthur Hays Sulzberger; Mr. Arthur Sweetser; Mr. Bernard M. Baruch; Mr. David K. E. Bruce; Mr. Robert W. Woodruff; Mrs. Em Bowles Alsop; Senators A. Willis Robertson (Virginia) and H. Alexander Smith (New Jersey); Representatives Burr P. Harrison (Virginia) and Peter Frelinghuysen (New Jersey); and Conrad L. Wirth, Director, National Park Service.

Meetings of the Commission were held on May 16 in Washington, D. C., and on June 15 in Staunton, Va. In formulating plans to commemorate Woodrow Wilson's birth throughout the Nation, the Commission came to the definite conclusion that the $10,000 authorized in the original legislation was insufficient for an adequate and dignified commemoration. Therefore, they recommended amendatory legislation removing the $10,000 limitation.

Additional funds will be needed to provide adequate public informational data, to pay for necessary printing and reproduction, costs of additional supplies and communication requirements, to pay the expenses of Commission meetings, and to provide adequate personal services, including contractual services. These funds will also cover expenses of preparing the final report of the Commission to the Congress which must be undertaken during the latter part of the 1957 fiscal year.

I have been advised that the Bureau of the Budget interposes no objection to the enactment of this legislation.

Sincerely yours,

CONRAD L. WIRTH,
Executive Officer.
WOODROW WILSON CENTENNIAL CELEBRATION COMMISSION.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 705, 83D CONGRESS, 68 STAT. 964

* * * * * * *

SEC. 5. There is hereby authorized to be appropriated [not to exceed $10,000 for travel expenses of the members of the Commission and for other expenses that may be incurred in developing suitable plans provided for herein, and no appropriation shall be deemed to be authorized herein to carry out the purposes of this resolution in accordance with such plans unless an additional appropriation to carry out such purposes is expressly authorized by further legislation.] *such sums as may be necessary to carry out the purposes of this joint resolution but in no event shall the sums hereby authorized exceed a total of $41,500 in addition to the sum of $10,000 originally authorized by this resolution.*

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84TH CONGRESS } SENATE { REPORT
1st Session } { No. 1140

ATOMIC ENERGY COMMUNITY ACT OF 1955

JULY 25, 1955.—Ordered to be printed

Mr. ANDERSON, from the Joint Committee on Atomic Energy, submitted the following

REPORT

[To accompany S. 2630]

The Joint Committee on Atomic Energy, having considered S. 2630, an original committee bill, to facilitate the establishment of local self-government at the communities of Oak Ridge, Tenn., and Richland, Wash., and to provide for the disposal of federally owned property of such communities, do unanimously report favorably thereon and recommend the bill do pass.

BACKGROUND

When the atomic energy projects were started by the Manhattan Engineering District at Oak Ridge, Tenn., and Richland, Wash., many factors entered into the selection of the sites. One factor in particular was the distance from existing communities due to the need for very stringent security measures. Consequently it was decided that towns would have to be built to house the employees at these atomic energy installations, as well as the plants. It was the desire of both the Manhattan Engineering District and, later, the Atomic Energy Commission, to make the town attractive to the large number of scientists and other skilled employees whose abilities were of such vital importance to this defense effort. The towns have remained Federal operations until the present. In the meantime, the policy of the Federal Government has completely changed. As new plants of the Atomic Energy Commission were built at Aiken, S. C., Portsmouth, Ohio, and Paducah, Ky., the Commission did not build, own, and operate the community for the employees at these installations.

For a long time it has been the desire of the Joint Committee that the communities be sold and that the Commission be removed from community operations. A good summary of this history is contained in the letter of June 3, 1955, written by Lewis L. Strauss, the Chairman

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of the Atomic Energy Commission to John J. Dempsey, the chairman of the subcommittee of the Joint Committee which has concerned itself with the problems involved in this bill.

That letter is as follows:

JUNE 3, 1955.

Hon. JOHN J. DEMPSEY,
Chairman, Subcommittee on Disposal of Government Owned Communities,
Joint Committee on Atomic Energy,
Congress of the United States.

DEAR MR. DEMPSEY: We are advised that a subcommittee, under your chairmanship, has been established to consider S. 1824 and H. R. 5845, bills concerned with disposal of the government-owned communities of Richland, Wash., and Oak Ridge, Tenn., and that you have scheduled hearings at Oak Ridge, June 10, and plan to conduct hearings at Richland in the near future.

It is the sincere desire of the Commission that these hearings will result in enactment of legislation which will lead to homeownership and self-government and will bring to an end the unusual and undesirable arrangement of the Federal Government, through the Atomic Energy Commission, owning and controlling the communities of Richland, Wash., and Oak Ridge, Tenn.

The undesirability of Federal ownership and management of these communities is apparent to everyone. From the point of view of the residents, we think there is general agreement that citizens of the United States should not be denied the right to participate in local self-government and should have the opportunity to own their own homes. From the point of view of the Commission, the task of community management has proven and continues to prove a burdensome distraction from the primary objectives with which the Commission has been charged by Congress. Our experience with new installations constructed since the date the Commission took over the atomic energy program in January 1947, demonstrates that it is not necessary to the Commission's program that it own or control the houses and community facilities serving workers at those installations.

The fundamental undesirability of having the Commission continue to own and operate these communities has been emphasized recently in the President's budget messages of January 21, 1954, and January 17, 1955, in which he recommended "that the Congress approve legislation to allow the residents of Oak Ridge, Tenn., and Richland, Wash., to purchase their homes and establish self-government, thus taking the Federal Government out of the business of owning and governing these communities." The Joint Committee has repeatedly pointed out that Federal ownership and operation of communities such as Oak Ridge and Richland is unsound national policy. For example, at the Richland hearings last year the then chairman of the Joint Committee on Atomic Energy, Congressman W. Sterling Cole, expressed the determination of the committee that appropriate legislation would be enacted in the near future to achieve effective disposal of these two communities.

The bill which the Atomic Energy Commission introduced last year took a long time in developing. The steps leading up to the previous bill were discussed in a letter of April 12, 1954, from Mr. Strauss to Congressman Cole:

* * * * * * *

"The Atomic Energy Commission inherited the federally owned communities of Oak Ridge and Richland (as well as Los Alamos, N. Mex.) from the Manhattan Engineer District in 1947. The Commission's consistent attitude toward these communities is reflected in instructions issued by its General Manager on December 15, 1947, stating:

" 'It is the desire and intention of the Commission that, consistent with security and other requirements, residents at field installations shall enjoy those facilities, services, and activities which are properly a part of American community life.'

"In 1948 it retained the late Mr. Lyman Moore as a consultant to report on the feasibility of instituting self-government and homeownership in the AEC communities. Mr. Moore reported favorably on the feasibility of such action, but recommended several steps to be taken prior to launching a disposal program. A major recommendation—separation of community costs from those related to other parts of the AEC program—was initiated at once. Since then the community accounting system has undergone repeated refinements, so that a close analysis of costs attributable to the various community functions is possible. Further investigations and reports concerning feasibility of incorporation and disposal were made by the J. L. Jacobs Co. at Oak Ridge in January 1949 and by the Public

Administration Service at Richland in 1950. (Both of these firms are public administration consulting firms in Chicago, Ill.)

"In its report entitled 'Investigation Into the United States Atomic Energy Commission,' dated October 13, 1949 (S. Rept. No. 1169, 81st Cong., 1st sess., p. 86), the Joint Committee on Atomic Energy stated:

" 'A detailed plan for disengaging these towns should be drawn up and a definite timetable established for executing it.'

"In the fall of 1950 the Commission appointed an advisory panel on community operations, consisting of Mr. R. G. Scurry, attorney, Dallas, Tex., chairman; Mr. Frederick M. Babcock, housing consultant, Washington, D. C.; Mr. George E. Bean, city manager, Grand Rapids, Mich.; and Mr. George Gove, vice president, Metropolitan Life Insurance Co. After extensive review of the various previous studies and other documentary materials, and discussions with the residents of the communities involved as well as with the staff of the Commission and its contractors, the panel, on August 3, 1951, submitted a report with respect to Oak Ridge and Richland, which was released for publication by the Commission on August 9, 1951.

"The panel report pointed out that:

" 'The communities and the housing and other facilities which they embrace bear an important relation to the AEC program. Their effect on the recruitment and maintenance of personnel both in terms of numbers of workers and in the grade and morale of workers is sufficient to make the presence, attractiveness, and efficiency of the towns a continuing concern of the Commission.'

"It added:

" 'Whatever policies are adopted and whatever actions are taken with respect to community affairs and housing in the two areas they must serve the principal AEC mission.'

"It summarized the Atomic Energy Commission's necessities as including the attractiveness of the communities to AEC workers, the level of living costs at these communities, the adequacy of housing supply, and the level of essential municipal and utility services and particularly of schools and hospitals. As it said, 'The interests of the AEC require not only the presence of communities, but the presence of good communities.' It concluded that a program which 'achieves the desirable goals of self-government and private ownership without failing to meet all of the AEC necessities listed above' was feasible, and it set forth in detail a program which it regarded as meeting that objective.

* * * * * * *

"After receiving the panel report on Oak Ridge and Richland, the Commission arranged for surveys by the Bureau of the Census of opinions of residents of Oak Ridge and Richland, which disclosed that a slight majority at each city favored municipal incorporation and that a slight majority at each city would purchase houses on the terms proposed in the panel report. Meanwhile, the residents of both communities have discussed extensively the problems of establishing local self-government. The legislature of the State of Washington has enacted legislation which would permit the city of Richland to incorporate. Resolutions from the Oak Ridge Town Council and the Richland Chamber of Commerce recommending incorporation and disposal of Commission-owned residential, commercial, and municipal property have been received. While the residents of Oak Ridge voted preponderantly at a referendum on March 31, 1953, not to incorporate on January 1, 1954, that vote, taken at a time when the nature of legislation to be proposed by the Commission had not been made public, would not appear to be an expression opposed to incorporation at some subsequent time assuming legislation satisfactory to both the Atomic Energy Commission and the residents of Oak Ridge should be enacted."

Subsequent to the introduction of the bill last year, hearings were held at Richland on June 18 and 19, 1954. Numerous helpful comments and suggestions by various interested groups at both Richland and Oak Ridge have been received, during the hearings and afterward. In the light of these comments and suggestions, and of further study, the Atomic Energy Commission has proposed a revised bill.

The bill last year and the revised bill this year reflect differences between Richland and Oak Ridge, as is to be expected from any effort to establish equitable treatment for each, in view of the basic differences between the two communities. These differences arise principally by reason of geographic location, governmental organization, and fiscal requirements of the respective States and the adequacy of physical facilities in the two communities.

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It is my understanding that on March 8, 1955, the residents of Richland voted against incorporation and homeownership. This vote was held prior to the time this new bill was introduced. It is hoped that the residents of both Richland and Oak Ridge will find the provisions of the present bill satisfactory.

In conclusion, we would like to emphasize that it is the firm intention of the Atomic Energy Commission to divest itself of ownership and control of the communities of Richland, Wash., and Oak Ridge, Tenn. The Commission believes that S. 1824 and H. R. 5845 represent a workable plan to accomplish this end. We stand ready to assist in every way possible in promoting the enactment of legislation at this session of Congress.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

The history of the legislation dealing with the disposal of the communities most immediately starts with the bills which were forwarded by the Atomic Energy Commission and introduced in both the House and the Senate in April of 1954. At the same time that the Joint Committee had these community disposal bills before it, it also has the proposals to amend the Atomic Energy Act. It was the thought of the Joint Committee that the economic future of both of these cities was directly tied to the future of the entire atomic-energy industry. Therefore it thought that consideration of the community disposal bills should logically take place after the economic future of the cities had been assured by the amendment of the basic Atomic Energy Act to establish an independent atomic-energy industry. The feeling of the Joint Committee with respect to the future of these towns is supported by the Atomic Energy Commission which has sent the following letter to Senator Jackson:

JULY 22, 1955.

Hon. HENRY M. JACKSON,
Congress of the United States,
Washington, D. C.

DEAR SENATOR JACKSON: Reference is made to your request transmitted by Mr. Norris for the Commission's views regarding the future of Hanford and Oak Ridge.

For the foreseeable future, the operation of the Hanford and Oak Ridge facilities of the AEC will represent a substantial and vital part of the overall atomic-energy program. The major effort at both Hanford and Oak Ridge is the production of special nuclear materials. Requirements for these materials have in the past not only imposed maximum levels of operation of production facilities but also necessitated construction of new capacity to meet growing needs. The most recent of these construction programs is now nearing completion. The continuing requirements for national defense and the rapidly mounting requirements for peacetime uses of atomic energy indicate a continuing need for the full capability of these major AEC installations for the predictable future, in accordance with the policy declaration (sec. 1a) of the Atomic Energy Act of 1954.

In view of the vital role of both the Hanford and Oak Ridge facilities in the overall atomic-energy program, the proposal of the Commission to dispose of the residential and commercial properties and of its responsibility for providing public services at these locations cannot be regarded, by any stretch of the imagination, as indicative of an impending close out of operations in that area. Rather, it reflects the earnest desire of the Commission to provide for the residents of these communities the advantages of self-government and homeownership obtainable in any normal community.

Sincerely yours,

LEWIS STRAUSS, *Chairman.*

On June 18 and 19, 1954, a subcommittee of the Joint Committee was able to hold a hearing at Richland. At that time numerous witnesses were heard on the Commission's proposed bill.

On April 26, 1955, the Atomic Energy Commission again submitted a proposal for legislation for the disposition of the communities which was introduced in both the Senate (S. 1824) and the House (H. R.

5845). This bill was based on the Commission bill of 1954 and took into consideration many of the points which had been made by the residents of Richland at the hearings.

On June 10, 1955, the Ad Hoc Subcommittee on the Disposal of Government-owned Communities held a hearing at Oak Ridge. Immediately thereafter the community-disposal legislation was redrafted.

On July 5, 1955, the subcommittee held a hearing at Richland. Following this hearing the community-disposal legislation was further redrafted.

Comments have been received on the proposed legislation from the Atomic Energy Commission and from the Housing and Home Finance Agency. The comments of these two agencies are appended to this report as appendix I and appendix II, respectively.

The Joint Committee has carefully weighed all of the positions taken by all of the persons who are affected by this legislation and has tried to draft a bill which will be as fair as possible to all concerned. Special attention has been given to the suggestions voiced by the residents of communities affected by this bill since to a very real degree they are being forced to buy housing. Those persons living in the towns rely on the atomic energy industries for their employment either directly or indirectly. There is no other industry in either town. The towns are situated so far from other industries that the ability of the residents to obtain positions in other communities outside of Richland and Oak Ridge is minimal.

At the present time Richland has a population of about 28,000, while Oak Ridge has a population of about 32,500. It is anticipated that there will be about 6,000 units of property to sell at Richland, with an estimated book value of $45,500,000. It is anticipated that there will be about 8,000 units of property to sell at Oak Ridge, with an estimated book value of $44 million. The estimated proceeds from sales of the residential property at Richland will be in the neighborhood of $42 million, while the estimated proceeds in the sales of residential property at Oak Ridge will be in the neighborhood of $40 million. The net book value of the properties to be donated to the local government at Oak Ridge will be approximately $35,300,000, while the net book value of the properties to be donated at Richland will be approximately $38 million. While the cities will start off with a complete plant, it is to be remembered that this plant was part of the investment made by the Federal Government in the production of fissionable materials for the weapon which hastened the end of World War II. To require the communities to pay for these municipal installations would saddle the new city governments with an almost insurmountable debt, the cost of which would only increase the costs of the assistance payments to be made to the cities. A full financial analysis of the original proposals of the Commission are included in the Joint Committee print of April 1955, which accompanied H. R. 5845 and S. 1824 when they were introduced.

EXPLANATION

In order to carry out the purposes of this act and to dispose of the communities at Richland and Oak Ridge, the Commission is first required to map the towns and to establish the lots. Lest there be any thought that it is committed to the present lot lines, it is given

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express authority to change them. It is then directed to obtain appraisals on the properties from the Federal Housing Commissioner. This appraisal is to set forth the fair market value of the Government's interest in the property. Lists of the appraisals are to be posted before the properties are offered for sale.

The selling price of the property is set at the appraised value of the property. In the case of Government-owned single or duplex houses, the sales price is the appraised value less 15 percent. A deduction is allowed an occupant who buys the house in which he is living equal to the amount by which the Government's interest in the property is increased because of improvements he has made. A junior tenant in a duplex is also given a credit on the purchase of any residential property he buys for the increase in value of the Government's interest in the duplex due to improvements he has made. There is an additional deduction of 10 percent for those who do not desire to take advantage of the indemnity provisions set out later on.

The Commission is given authority to classify all of the property at each community and to establish rules for the treatment of the property such that reasonably similar property is subject to reasonably similar rules. The Commission is also required to establish by rule or regulation a detailed system of priorities which give a first priority to the occupants and also give the occupants at least 90 days in which to exercise the first priority. The Commission is given the power to establish the priorities instead of having them set forth in the statute, because the problems are so complex as to require that flexibility be left in the Commission.

The priorities are not transferrable except that a religious organization may exercise the authority of its priest, minister, or rabbi and two priority holders having a common interest in the building may assign their interest to a single assignee.

After the appraisals have been made and before the Commission starts to sell the community, it must find that there is reasonable possibility of success for the disposal program at the community. This will permit the Commission to put either or both of the communities up for sale as soon as it is sure that the communities are ready for the program. The Commission is directed to sell all of the real property which is under lease for either residential or commercial purposes and may dispose of any other property within or without the boundaries of the community. The offer to sell is made by written notice to those eligible to receive the notice under the priority system. Any property which is not sold under the priority system is then put up for auction, but it cannot be sold at less than the appraised value or, in the case of Government-owned single or duplex houses, below 85 percent of the appraised value. In selling the houses, the Commission may give warranty deeds. Those tenants who decide within the period for the exercise of the first priority that they do not desire to buy the house they are living in, but who do wish to remain in it for a while, may sign a lease which is to run for 1 year from the date of the offer to sell the house. The Commission is also directed to sell the single residential lots which were leased after competitive bidding and upon which no Government-owned building is situated. The Commission is also authorized to offer other residential lots for sale. It is hoped that by this offering some of the tenants will desire to buy a lot and build instead of buying the existing Government-built housing.

Since all sales are for cash, the Commission is authorized to enter into a contract-purchase arrangement with a priority purchaser for a single-family or duplex house, which will permit the purchaser to raise the downpayment and to complete his purchase in not more than 3 years after the contract is signed. If the Commission does not find that private financing is available on reasonable terms, it is authorized to provide financing for the sale of residential property on terms equal to those being charged under section 223 (a) of the National Housing Act on the effective date of the sale.

Since both communities are fairly well removed from any other source of general employment and are, therefore, dependent on the employment levels at the installations, the purchaser of the property is given a Government indemnity in the event that employment levels fall too low. This indemnity extends for 15 years after the date of the enactment of this act. The indemnity obligation is contingent on the employment and population levels at the community falling below 90 percent of the present levels. The amount of the indemnity is the difference between present debt owed under a hypothetical 20-year mortgage at the average interest rate for that class of property in the community less the amount of the proposed sales price of the property. This method of calculating the amount due is equally applicable to those who have paid cash for the houses and those who have financed the purchase of their houses by a mortgage.

The Commission is authorized to transfer the utilities at the community to any qualified legal entity. In selecting the transferee, the Commission may consider not only the proposed sales price, but also the ability of the transferee to own and operate the utility and the general pattern of ownership of that utility in that State. The Commission may give the utility to the city, but otherwise must sell it either on a competitive bid or on a negotiated sale.

The Commission is also authorized to assist in the formation of the new city government and to make payments which will help the residents in that formation. Then the Commission is authorized to transfer to that city or any other entity legally authorized to receive the municipal installations. The Commission is essentially bound by a selection of the people in deciding which entity shall receive which installation.

The Commission is required to assist the governmental units at the community by payments which reflect the burdens thrown on that community both by the federally owned property in the community and by the Federal operations in the project area of the community. The assistance to be given shall normally be based on the difference between the costs of operating the governmental unit to which the assistance is being given and the revenues it receives. It is required to operate at a level such that it furnishes services equal to the services rendered by the first quartile of cities the same population size. This is the level of services that has already been established at the community by the Commission, especially in the schools. The tax rates which the community may charge in rendering the municipal services must not be below the average for the communities. The governmental entity receiving the assistance is required to maintain the statutory level of service for the area for which it operates.

In order to be sure that the Commission ends its participation in community operations, the President is authorized to redelegate the

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functions placed on the Commission by the act. The Joint Committee retains its full statutory powers under this act and, in addition, is required to conduct a full review of the disposal activities every 3 years.

SECTION BY SECTION ANALYSIS

Section 11. Policy.—It is the policy of the United States that government ownership of the communities should be terminated as speedily as possible.

Section 12. Findings.—This section sets forth the findings by Congress which brings the provisions of the disposal legislation under the Constitution. The constitutional powers being exercised are the powers to provide for the common defense and security, to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, and to levy taxes and pay the debts to provide for the common defense and general welfare.

Section 13. Purposes.—The disposal program shall not impair the morale of the community. The United States will make contributions to the municipal governments for fiscal problems imposed on the communities by reason of their construction as defense installations, and because of the burdens imposed on the local governmental agencies by the United States. The bill also provides an opportunity for the residents of the communities to assume the obligations and privileges of local self-government, and encourages construction of new homes in the communities.

Section 21. Definitions.—Included in the terms defined is the word "community" which specifies the area at Oak Ridge, Tenn., or Richland, Wash., designated on certain maps filed in the principal office of the Commission. The term "municipal installation" is defined to include all of the usual local plans, such as streets, schools, and sewers, but it does not include utilities. The term "utility" means any electrical distribution system, public transportation system, or public communications system.

Section 31 authorizes the Commission to plat the land in each community in order to establish the boundary lines for the lots to be sold.

Section 32. Appraisals.—The Commission is instructed to secure appraisals to all property in the community which is to be sold. These appraisals are to be made by the Federal Housing Commissioner, or his designee. The Commission is directed to reimburse the Federal Housing Commissioner for the cost of the appraisals. The appraisals so made are to stand as the basis for the insurance of mortgages under the National Housing Act until the Federal Housing Commissioner finds that the appraisal values no longer represent the fair market value generally in the community. As originally presented to the committee, this section also provided for a Board of Review. Upon receiving the assurance of the Federal Housing Commissioner, as contained in his letter of July 22, (appendix II) that the standard practice of the Federal Housing Commissioner is to have a separate examination of an appraisal made whenever there is a complaint, this provision was deleted from the bill. The work of an appraiser is of professional status. To provide a review of such work would constitute a precedent which the Federal Housing Commissioner finds to be unwise. Since the whole purpose of the provision is to assure the people in the communities that they would

have an opportunity to obtain a reexamination of any appraisal, this purpose is accomplished with the assurance contained in the letter. Eliminating the provisions in the bill also eliminates the necessity for making payment of the costs of the reappraisal in advance, and also eliminates the restriction on the right to obtain a reappraisal.

Section 33. Basis of appraisal.—This section sets forth that the appraised value shall be the current fair market value of the Government's interest in the property. Many persons in both Oak Ridge and Richland were suggesting that the method of arriving at the current fair market value be specifically spelled out in the statute. In view of the fact that an appraiser's evaluation of property considers all of the factors which can affect the economic status of the property in the future, it was not thought right that any of the problems raised by the residents should be specifically written into the statute. Instead, it was thought preferable that the statutory basis for the appraisal be the fair market value and that the appraisers be reminded, in determining the fair market value, to take into consideration a number of factors, among which are:

(1) The wartime construction of the houses;

(2) The wartime construction of the utilities serving the housing;

(3) The "monotony" effect of having many houses identical to each other in the same neighborhood; and

(4) The one interesting nature of the community.

There was some suggestion that the appraisers be directed to appraise each building as though it were in a normal community. It was felt that this suggestion was wrong in that each peice of property can be appraised only in the light of its own conditions.

Section 34. Posting.—The Commission is required to post lists showing the appraised value of each property before offering such property for sale.

Section 35. Sales prices.—This provides that sales would be made to those persons who purchased residential property under a priority established pursuant to section 42, shall pay the appraised value of the property less a reduction of 15 percent, together with any other deductions which may be permitted. Sales of other property to priority purchasers are to be made at the appraised value less any other deductions permitted.

Section 36. Improvements.—In the sale of residential property an additional deduction is allowed for the amount by which the fair market value of the Government's interest in the property is increased as a result of improvements to the premises made by or at the expense of the purchaser. The only other improvement deduction which is permitted is for a junior tenant in a duplex house. He is permitted a credit on the purchase of any residential property of an amount equal to the increase in value in the Government's interest in the duplex in which he is living by reason of improvements he has made.

A 10 percent deduction from the appraised value is permitted to persons who desire to purchase the property without taking advantage of indemnity provisions.

Section 41. Classification of property.—The Commission is required to classify all real property at the community in order to insure reasonably similar treatment for reasonably similar property. The Commission may classify any other property at or in the vicinity of the community. *This is to permit the Commission to start the steps*

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which might be needed to bring other property within the bounds of the community at any time, and to permit other industries to be brought to the communities.

Section 42—Priorities.—The Commission is required to establish a system of reasonable and fair priority rights by rule and regulation. The statute requires the priorities to be uniform in each class of property and to give such preference to those persons living in the community or who are connected with the atomic energy project community as the Commission finds necessary or desirable. The Commission must consider the desirability of retaining personnel in the community who are essential to the atomic energy program. It must minimize the dislocation of persons within the community. The Commission must seek expeditiously to accomplish the disposal program and must also consider the desirability of encouraging private firms to locate or remain in the community. It gives the occupant of a Government-owned single-family and the senior occupant of a duplex house at least 90 days in which to exercise the first right of priority. It is believed that generally the occupants would be able to make the financing arrangements within the 90 days. In the event, however, that the Commission found it necessary, it was given full authority to enlarge that period for such time as would be fair for the priority holders. In all other cases the Commission has the sole responsibility for setting the time within which the priority will be exercised after the property is once offered for sale.

Since the problem of retired personnel and former residents of the area has given rise to a small number of inequities the Commission is permitted to consider their needs also. Many families who had lived m the areas before they were condemned want to move back and have a right to buy a home there. Others want to obtain some of the property they owned before which has not been used by the Commission and does not seem likely to be needed for the purpose of the city in the community.

The priority must not impair any existing contract rights.

Section 43. Transferability.—This section prevents the transferring of priorities but it does permit a husband and wife to exercise a priority in their joint names. It also permits a religious organization to exercise a priority instead of the person who would be its rabbi, priest, or minister. If, as is especially the case in commercial property, several of the occupants of 1 building may want to assign their rights to 1 company which will then be the landlord for all, the priority holders who have an interest in 1 building may exercise their priorities to 1 assignee. This provision will also be of help in the four-family homes when they seek to form a cooperative to own those buildings. In addition the Commission is given permission to authorize such other transfers as it finds to be fair and equitable.

Section 51. Application.—The provisions of the chapter on sales of property for private use are to be put in effect at each community only when the Commission finds that there is a reasonable possibility that the Government-owned real property at the community can be disposed of in accordance with the provisions of this chapter. It appears that the Commission will require about 6 months to obtain the appraisals of the property and may require some time thereafter to be sure that it has the paperwork ready for the sales. This would mean it would probably be about three-fourths of a year before the actual

sales program at each community can be started. In addition, this time lapse will permit the Commission to see that as much as possible of the necessary financing is available from private sources. It will also permit the Commission to be sure that the proper machinery is established for taking care of the paperwork necessary for the large volume of sales.

One further advantage of this schedule is that it will permit the Congress to have a further look at the direction in which the disposal program is headed before the actual sales begin.

Section 52. Disposal of property.—The Commission is directed to offer for sale all the real property under lease from the Commission within the communities, if in the opinion of the Commission the property is appropriate for the use for which it is leased. The Commission may dispose of all other property within the community and may dispose of any other property outside of the community. However the Commission is given authority to remove those buildings which because of their type of construction, condition, or location, it believes are unsatisfactory. The Commission is authorized to sell the property without reference to any priority or preference contained in any other law.

Section 53. Sales.—The Commission is required to offer Government-owned property for sale to the priority holders by giving notice to those holders in such manner as the Commission prescribes. It shall identify the property and set the date on which the offer expires. Property which is not sold under the priority system is to be sold to the highest bidder. But the up-set price of all properties is the appraised value except for single-family and duplex houses in which the up-set price is 85 percent of the appraised value.

Church property may be disposed of by advertising and competitive bid or the negotiated sale if it is not sold under a priority right.

Section 53. Cash sales.—All sales are for cash except as especially provided for contract sales and Commission financing in the event that adequate private financing is not available.

Section 55. Form and provisions of instruments.—The deeds for the property are to be as simple as possible and shall contain such warranties and covenants of title as the Commission may deem appropriate. It is not expected that the Commission will provide any kind of a deed other than a warranty-type deed to the first priority holder except that the Commission may find it necessary to exclude from the warranty such items as easements for sewer and water pipes where the locations are not accurately known. The Commission may retain rights to dormitories or apartment houses which are sold to be able to designate the occupants of some of the properties. It would be expected that this would be one factor which would enter into the sale of the property and a negotiation of sale. Provision is made for the payment of municipal services rendered by the Commission until the date that the community takes over the operation of municipal functions. In order to be sure that zoning, building code and health regulations are complied with, the Commission is given authority to require compliance with those regulations in its deeds for a period up to within 1 year after the incorporation of the city.

Section 56. Occupancy by existing tenants.—In order to be sure that those living in the homes at the present time are given an opportunity

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to find other housing if they do not want to buy the house in which they are presently living the Commission is directed to permit him to lease the property for 1 year from the date of the first offer. Since the occupant may find that he is unable for any reason to obtain the necessary financing this right to stay in the present home as a tenant is given to him to be exercised during a period in which he is given the right to buy the house under the first priority.

Section 57. Lots.—The Commission is authorized immediately to sell the single residence lots which have been leased upon competitive bid and which do not have a Government-owned building on them. The price for this sale is set in the valuation of the lot already agreed upon in the lease. The Commission is also authorized to offer other residential properties for sale, taking into consideration the zoning restrictions the new city will likely enact with respect to those lots. At both Richland and Oak Ridge there is an active planning and advisory board which while having no legal responsibilities still has prepared a master plan for the city. While the Commission of course has no assurance that that plan will be adopted by the city, still it can use that plan as a guide in disposing of any further single-residence lots.

Section 61. Contract purchase.—In order to permit those persons who are unable to raise the downpayment which might be needed for any mortgage—if the purchaser cannot raise the full purchase price in cash, the Commission is authorized to enter into a contract of sale with the purchaser. This would give the purchaser up to 3 years in which to accumulate the necessary financing for the downpayment.

Section 63. Commission financing.—If the Commission finds that there is not private financing on reasonable terms then it may accept mortgages in payment for the purchase of the property which are based upon the terms of the National Housing Act mortgages for properties of similar character.

Section 64. Commission indemnity.—For those purchasers of a single-family or duplex house who desire to take advantage of indemnity, the Commission will indemnify any purchaser for 15 years after the date of the act. The statutory indemnity is deemed to be incorporated by reference in all of the deeds to which it is applicable.

Section 65. Community employment and population.—The indemnity obligation arises if, for the 6 months previous the number of operating, maintenance, and administrative employees in the project area is less than 90 percent of the present figure and if the population in each community is less than 90 percent of the present population. The figure for the total number of operating, maintenance, and administrative employees in the project area is intended to cover all of the industrial-type operations either of the Commission or of any contractor or of any licensee or of any other industrial activity which is in the project area. Such industrial activity should be started on land outside of the community but made available for industry by the Commission under the terms of section 41 b. This is not meant to include the shopping and service area employees, since it is the industrial activity which will primarily govern the economic health of the areas. While the Commission has asked that this figure be set at 75 percent instead of the 90 percent there have been requests from some of the residents that it be set as high as 100 percent. After considering all of the problems involved 90 percent

was selected as the fairest percentage in the light of all of the problems involved.

Section 65. Amount of indemnity.—The amount of the indemnity is set at the amount which would have been unpaid under a mortgage entered into on the date of the execution of the original deed which was in the amount of the purchase price in the Commission for a 20-year period and for interest which is the average interest reported for the property. The indemnity was calculated this way in order to give equal protection to those persons who actually have mortgages and those persons who were able to pay cash for their homes or who have prepaid some of the mortgage. The original Commission proposal protected only those persons who had a mortgage and no one else.

Section 66. Conditions of indemnity.—The Commission's obligation to indemnify is also contingent upon its being notified at a time when the employment levels are less than those set forth in section 64; that the owner of the house is going to sell at a figure less than that arrived at by section 65. The Commission is given the authority to prescribe the manner of the sale and also authority to buy if it so desires.

Section 71. Authorization to transfer utilities.—The Commission is authorized to transfer such utilities to the authorized entities as will in its judgment enable the transferee adequately to meet the needs of the residents of the community.

Section 72. Date of transfer.—The Commission is directed to transfer the utilities as soon as possible but not later than 5 years after the date of the enactment of the act.

Section 73.—Entity receiving transfer.—If the transferee has the legal authority to receive and operate the utility the Commission may transfer the utility to the city, the State, and a political subdivision of the State or any other legal entity. In determining the transferee for any utilities the Commission is authorized to consider the pattern of ownership of comparable utilities in the State, the ability of the transferee to operate the utility, the probable sales price for the utility and the ability of the transferee to pay that price and any probable expense (which in the case of any governmental entity would include any possible future assistance to that entity under sec. 91) and the desires of the voters.

Section 74. Utilities transferable.—The utilities which are transferable under this chapter consist of the bus system at Oak Ridge, the electrical distribution system at both Oak Ridge and Richland, and the telephone system at Richland. It does not include property which the Commission needs for its own purposes.

Section 75. Charges for utilities transferred.—The Commission is authorized to give the utility to the city but must charge in selling the utility to any other transferee.

The bus problem at Oak Ridge is one which the Commission believes it may have difficulty in solving.

The telephone system at Oak Ridge is already owned by the Bell Telephone System and there is no concern with it. It is expected that the city of Oak Ridge will follow the pattern of cities in the Tennessee Valley area and establish a municipal electrical distribution system. The electrical distribution system at Richland has been spoken for by the city, by the public utility district for Benton County (which

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includes Richland), and by the private utility company which operates generally in the State of Washington. All of these have agreed at the hearings at Richland in June of 1954 that they would be bound by the desires of the people of the city of Richland as expressed in an election. The telephone system in Richland has been a particularly knotty problem since the city desires to have the phone system for itself in order to provide revenues to help operate the city. The attorney general for the State of Washington has ruled that the city of Richland will not have the legal authority to receive the telephone system under present statutes. The telephone company which had the franchise in the area before it was partially condemned at the time of the acquisition of the real estate for the Manhattan Engineering District desires to reestablish itself in accordance with the rights given to it in its franchise.

The reason the Commission is authorized to give a utility to a city is that it may be in the best interests of the United States, if all other factors are equal, to give the utility to the city and permit the city to use the operating revenues as increased sources of revenues for the city. Such an arrangement would bring in revenues which would, to that extent, decrease the amount of assistance which would be required to be given to the city under the assistance sections.

Section 81. Assistance in organization.—The Commission is permitted to assist the citizens in the communities to prepare for the incorporation of cities in the communities and to help them in turning over the municipal installations and functions to the local governmental entities. The Commission is given authorization to help meet the expenses of the people in the establishment of the city government.

Section 82. Authorization to transfer municipal installations.—The Commission is authorized to transfer municipal installations which will permit the transferee to give adequate services to the residents of the community.

Section 83. Date of transfer.—The transfers may not be made later than 5 years after the date of the act.

Section 84. Entity receiving transfer.—Any governmental entity is authorized to receive municipal installation. In addition a private nonprofit organization is authorized to receive a hospital or a cemetery.

The Commission is to be bound essentially by the desires of the people in the community unless there is only one entity legally authorized to receive the municipal installation. The Commission is authorized to transfer all municipal installations except those which the Commission needs for its own use. Thus, where at Oak Ridge the water treatment plant serves both Commission plants and the community, the Commission is directed to retain that property. All of the municipal installations are directed to be turned over without charge.

By this chapter it is the hope that the residents of communities will receive the normal municipal plant within the normal governmental unit. Thus the city will take roads, water distribution, security, fire and police, while the school district will receive all of the schools and the plant associated with the schools. Either a hospital district or a nonprofit hospital will receive the hospital facilities of the community.

Section 91. Basis of assistance to cities and other State and local entities.—This section requires the Commission to make annual

assistance payments to any local governmental entity which has received a municipal installation. In determining the amount of the taxes the Commission is required to consider the approximate real property taxes it would pay on property within the community if the property were not exempt from taxation because of Federal ownership. It is also required to maintain municipal service at a level which will not impede the recruitment of personnel and is required to consider the problem peculiar to the Government because of its construction as a single-purpose national-defense installation under emergency conditions and the burdens imposed on the Government by reason of the Government operations in the project area. In an effort to give specific direction to these general purposes it is provided that the normal assistance is to be based upon the difference between the costs of operating the governmental unit on a par with the upper quartile of such units in the United States and the revenue received by that unit. However, in making charges for the purpose of this computation, the taxes to be charged by the governmental unit are not to be less than the average charge in the immediate vicinity of the community.

The Government has established both the atomic energy plants and the community at both Oak Ridge and Richland. It has decided that the geographical limits of the community shall extend only to the residential and commercial areas and not to the plant areas where the existence of plants outside of the communities and for which the communities were established place a large burden on the communities. If this had been a normal municipal development the citizens in the community could have voted to extend the community boundaries to include the industrial areas within the city. Even if at some future time these plants of the Federal Government should be incorporated within the city limits it would be unfair on the Federal Government to pay the tax equivalent based on the theory, which has already been approved by the Commission, that the Federal Government should pay taxes for these plants in the same rate as if they were privately owned. The valuation of these plants runs to many hundreds of millions of dollars, if not to billions of dollars. Therefore, the only fair principle to consider in arriving at the rate for the assistance is the principle of having the Federal Government pay for those burdens imposed on the city for which the city does not otherwise obtain adequate revenues.

Under normal industrial situations the plants would be paying taxes to the city which would normally carry a large part of the load. That the plants are owned by the Federal Government should not exempt the Federal Government from recognizing the burden which those plants necessarily impose on the local governments and in assisting the governments to the extent that there are not revenues available to meet those burdens. This principle has already been recognized in the Atomic Energy Act of 1954 in language which has been retained verbatim from the Atomic Energy Act of 1946. That language, in section 168, provides that "Such payments may be in amounts, at the times, and upon the terms the Commission deems appropriate, but the Commission shall be guided by the policy of not making payments in excess of the taxes which would have been payable for such property in the condition in which it was acquired, *except in cases where special burdens have been cast upon the State or*

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local government by activity of the Commission, the Manhattan Engineering District, or their agents." [Emphasis added.]

The special burden which will be imposed on these communities is the burden of maintaining services which will attract the caliber of the personnel which are needed to maintain the atomic energy plants. The Commission, so far as is known to this committee, has failed to recognize that it has thrown special burdens on any local government despite the wording in the present statute.

The Commission has proposed in its original draft as well as in its letter of July 22, 1955, that it abandon its responsibilities for these burdens and that it lay upon the shoulders of the employees it has brought into these plants the full cost of these responsibilities. It has established a high level of services, in its communities and especially in the school systems. Yet the Commission would hope to force the local residents at some time to assume full responsibility for these high levels of service regardless of the existence or nonexistence of other revenues from which these burdens can be met.

The tax rate for computing the revenues was stated at not less than the average tax rate for similar municipal installations in the area. The reason for this is obvious. If new inhabitants and new industries are to be attracted to the communities in order to help diversify the economic base of these communities, they must not be repelled at the start by a tax rate which, as has been computed by the Commission, will be substantially higher than the tax rates in the areas immediately around the communities. The imposition of such a higher tax rate will only serve to drive other people and industries away from the communities.

In order to meet the needs of those local governmental units which will have a sudden flood of work for which there are not adequate revenues, such as the recording of the deeds, the Commission is authorized to make additional payments to cover those costs for which the local governments do not receive adequate revenues. In addition the Commission is authorized to make special interim payments where there are tax losses or lapses, due to the inability of new governmental units to obtain tax funds the instant they are established.

Section 101. Transfer of functions.—The Commission is authorized to designate the duties and responsibilities placed on the Commission to other agencies of Government in order to get the Commission out of community operations just as fast as possible. These operations should be turned over to those governmental agencies which have the normal responsibilities in such cases.

Section 102. Review.—The Joint Committee is required to make a full review every three years of the activities under the disposal law.

Section 103. Joint Committee on Atomic Energy.—The Joint Committee retains the full authority given to it by the Atomic Energy Act of 1954.

Section 111. Powers of the Commission.—The Commission retains all of its powers under the Atomic Energy Act of 1954.

Section 112. Qualification to purchase.—This section permits Federal employees to buy property at the community.

Section 113. Contract forms.—This section provides that the contracts shall be as simple as possible and that the laws may contain provisions placing the United States on a par with private lenders under State antideficiency laws.

Section 114. Evidence.—This section provides that instruments issued under the terms of this law shall be conclusive evidence of compliance with this law.

Section 115. Administrative review.—This section provides for Commission review of actions under the law.

Section 116. Repossession.—The Commission is authorized to repossess any property in accordance with the terms of the contract or mortgage on that property.

Section 117. Net proceeds.—This section authorizes the Commission to turn over to the Treasury the net proceeds after payment of the expenses of operations under this law.

Section 118. Appropriations.—This section contains a general authorization section. It also provides appropriation for $518,000 for construction at Oak Ridge and $2,165,000 construction at Richland.

Section 119. Separability of provisions.—This section provides the usual separability clauses.

Section 201.—Makes necessary conforming changes to the National Housing Act.

Section 202.—Makes necessary conforming changes to Public Law 874.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill accompanying this report are shown as follows (new matter is printed in italics):

(Entire bill is new.)

APPENDIX I

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., July 22, 1955.

DEAR SENATOR ANDERSON: In accordance with an oral request from Mr. Allardice, I am happy to furnish you with a statement of the Commission's views on the committee print of July 19, 1955, of a community disposal bill.

As you know, the Commission has been concerned for a long time with the problem of community disposal. We drafted legislation which was introduced at the 83d Congress as H. R. 8861 and S. 3324, and we submitted a revised draft which was introduced on April 26, 1955, as S. 1824 and H. R. 5845. That legislation was designed to carry out the recommendation of the President's budget message "that the Congress approve legislation to allow the residents of Oak Ridge, Tenn., and Richland, Wash., to purchase their homes and establish self-government, thus taking the Federal Government out of the business of owning and governing these communities."

It is the sincere desire of the Commission that legislation be enacted at this session of Congress which will lead to home ownership and self-government and which will bring to an end the unusual and undesirable arrangement under which the Federal Government through the Atomic Energy Commission owns and controls these two communities.

In our view a satisfactory bill is one which would carry out the objective stated in the President's budget message of "taking the Federal Government out of the business of owning and governing these communities." In particular, we should like to emphasize the following which the Commission believes are among the criteria which must be met by any effective disposal bill:

(*a*) The bill should avoid creating conditions which will impede achievement of the basic AEC programs;

(*b*) The bill should provide for the effective termination of AEC's responsibility for and participation in community matters; and

(*c*) The bill should accomplish its objectives without undue costs to the Federal Treasury.

We believe S. 1824 and H. R. 5845 provided equitable and effective provisions which met those criteria. The Commission would, however, be glad to support

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modifications or alternative provisions which would be equally effective to carry out the basic objectives of the administration. Accordingly, we have reviewed, in the limited time available, the committee print of July 19 which is apparently designed to present an alternative to S. 1824 and H. R. 5845. Upon such review it is our conclusions that there is one feature of the committee print which appears fundamentally objectionable, and certain others which would appear to increase the cost of the program or impose administrative difficulties without compensating advantages. If these features were corrected we would not object to the substitution of the committee print for S. 1824 and H. R. 5845.

A. Provisions relating to contribution payments

AEC's principal objections to the committee print center about the provisions of chapter 9 relating to Federal financial assistance to local bodies. As drafted these provisions appear fundamentally objectionable in that (*a*) they fail to establish the principle of a definitive and complete withdrawal of AEC from participation in and responsibility in respect of local government; (*b*) they would impose continuing obligations on the Federal Treasury without limit in either amount or duration; and (*c*) they would provide on a permanent basis for special treatment for those two communities by requiring arbitrary adherence to fixed but dissimilar standards for services on the one hand and for taxation on the other hand.

In its operation of these two communities AEC has followed a course of instituting operating efficiencies and curtailing functions with a view to eliminating the need for a Federal subsidy. In the disposal bill which it presented to the Congress this year, AEC recommended a contribution formula calling for annual payments of fixed, declining dollar amounts. Such a formula would give the local entities assurance of specific amounts of payments and a substantial period of time within which to become self-supporting, while placing definite limits both on the amount of Federal payments and the duration of AEC's involvement in municipal affairs.

The provisions of chapter 9 of the committee print, on the other hand, would require continuing participation by AEC in community management since each year AEC would have to review and evaluate the level of municipal services and the amount of Federal financial assistance that would be required to support such services. AEC would be called upon each year to justify to the Appropriations Committees of Congress the Federal contribution required by the local entities to maintain the specified level of services. Thus, AEC would continue indefinitely to have a substantial responsibility for and participation in municipal affairs. The residents, on the other hand, would lack any definite assurance that any specific amount of Federal assistance would be forthcoming, thereby limiting community planning for operations and maintenance to a year-to-year basis and adversely affecting both the credit rating of the local bodies and their entitlement to State-shared revenues. Finally, any proposal to establish a system of Federal contributions which is without limit in either amount or duration would raise serious problems of overall Federal fiscal concern.

The provisions of section 91 appear intended to guarantee to the residents (1) revenues sufficient to support a level of services equal to that enjoyed by citizens in the upper quartile of cities throughout the United States of like population; and (2) a level of taxes or other charges comparable to that prevailing in other local entities in the immediate vicinity. Apparently, AEC would pick up the difference between these two. In short, under the bill AEC would guarantee the residents a high level of services for a low tax rate.

The first sentence of section 91d would appear to adopt a construction of section 168 of the Atomic Energy Act of 1954 which could give rise to an implication that other communities adjacent to AEC installations are entitled to a like guaranty of a high level of services and low taxes. We respectfully suggest that the construction of a prior act of Congress is not a proper legislative function.

The Commission feels that it would not be proper in this legislation to set up a permanent basis for contributions to these two communities which would afford them special treatment as compared with other federally impacted communities. The Federal Government has adopted various programs for assistance to communities suffering a Federal impact. Among these are provisions for assistance to education, such as that embodied in Public Law 874, 81st Congress. Another possible basis for governmentwide assistance to local communities which the Congress will doubtless have under consideration in the near future is reflected in the recommendation of the President's Commission on Intergovernmental Relations for a broad system of payments in lieu of taxes. In recognition of the peculiar fiscal problems of the communities, AEC has proposed the unusual step of donating $80 million of properties to the communities and other local bodies,

as well as provisions guaranteeing specific amounts of Federal assistance for a limited, transitional period. But it is the Commission's view that after necessary provision is made for a transitional period, Oak Ridge and Richland should within a reasonable time be brought within the scope of whatever Federal programs are available now or in the future on a governmentwide basis for assistance to Federally impacted communities. This philosophy is also consistent with the basic objective of AEC to obtain effective termination within a specified period of its responsibilities for and participation in community matters.

AEC continues to believe that the proposal for municipal contributions embodied in S. 1824 and H. R. 5845 is sound and workable. However, we recognize that the assumptions as to costs and revenues on which AEC's plan is based do not reflect any actual experience of the communities involved. Accordingly, AEC would be willing to see a bill enacted which would provide for interim payments to each local entity for an interim period of several years based on the difference between the costs and revenues of such entities pending the development, by cooperative effort of the Commission and the residents, of date upon which a definitive formula could be developed which would place finite limits on both the amount and duration of AEC contributions and would call for termination within a specified period of AEC's responsibility for and participation in local governmental matters. I attach for the committee's consideration a draft of such a provision.

B. Other provisions which might increase costs or create administrative difficulties

In addition to the provisions of chapter 9 which we have discussed above, there are certain other provisions of the committee print which, we feel obligated to point out, would appear to increase the costs of the program or impose administrative difficulties.

1. *Credits against sale prices.*—Section 36a would provide for a credit to priority purchasers of single and duplex houses in an amount which, we were orally advised by Mr. George Norris, Jr., would be 15 percent of the appraised value, as compared with a 10-percent credit proposed by the Commission. In addition, section 37d would provide that persons who elect not to take advantage of the indemnity provisions provided in sections 63–66 would receive an additional credit of 10 percent. Since the appraised value of single and duplex houses to be sold is approximately $66 million, each 5-percent increase in the credit afforded will decrease the proceeds of sale by approximately $3,300,000. AEC, while recognizing the need for some credit as an incentive to purchase by priority purchasers, feels that 10 percent was adequate.

In addition, we would have concern lest the introduction of a 25-percent disparity between the price to priority purchasers and the fair market value would afford an inducement to speculation and profiteering which might tend to defeat the Commission's objective of minimizing disruptions in occupancy and could bring serious discredit to the entire disposal program.

Section 37a of the committee print would allow a betterment credit to priority purchasers of leased land on which there are located privately owned commercial buildings. In many such cases the United States has reversionary interest in the building upon expiration of the lease, which formed a part of the agreed consideration for the lease. The proposed credit would thus deny to the Government without apparent basis an existing element of value for which the Government had bargained in entering into the lease.

For example, if land had been leased in December 1951 for a term of 20 years, on which the lessee constructed a $40,000 building, which would revert to the Government upon expiration of the lease, the building reversion would have a present value to the Government in December 1955 of approximately $15,000. (This is based on a return to the Government of 3 percent compounded annually on the value of its interest in the building.) Thus, if the lessee purchased the Government's interest in December 1955, the provisions of section 37a would result in a loss to the Government and a financial windfall to the purchaser in the amount of approximately $15,000 to which he would not be entitled under the agreed-upon provisions of the lease.

Time has not permitted analysis of all the Commission's commercial leases at Oak Ridge and Hanford to determine the total loss to the Government that would result, but it would be substantial.

2. *Rights of first refusal.*—Sections 53b and 53c would confer on occupants the right to meet the best price offered either on competitive bid or on other disposition. This right would be in addition to the successive priority rights conferred on such occupants as occupants, residents, and project-connected persons. AEC would fear that the availability of such a right of first refusal would

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tend to depress bidding for housing once priorities had been exhausted and hence to reduce to an unpredictable extent both the sale price of each house sold and the number of houses which will be sold.

3. *Indemnity provisions.*—The committee print would appear substantially to increase the obligations of the United States under the proposed indemnity provisions (secs. 63–66). The bill drafted by AEC had provided that the indemnity obligation could be invoked in the event of a 25-percent decline from present employment levels at the AEC plants and laboratories. The committee print would make the indemnity applicable in the event of a 10-percent decline. A 10-percent decline could occur without a major curtailment of the AEC program either by normal fluctuation in levels of operation or by increases in operating efficiencies.

In AEC's view the indemnity should arise only in the event of a major curtailment of the program of a type which the AEC has no present basis for foreseeing. It should be an insurance against the unanticipated. Accordingly, we strongly recommend that a 25-percent decline be the test adopted.

The proposed provisions somewhat broaden the measure of the test of decreased employment by basing it on both operating, maintenance, and administrative *employment in the project area (which we understand to mean such employees* in industrial and research enterprises, whether or not from a part of the atomic-energy program) and on population. While this improvement is theoretically *desirable as somewhat reducing the possible occasion for invoking the indemnity,* it would be considerably more difficult to determine these figures with the frequency and precision required than was the case with the figures for atomic-energy employees on which the Atomic Energy Commission had based its provision. Administrative difficulty is also presented by the failure of section 65 to specify clearly the rate of interest to be applied.

Finally, the committee print would extend the indemnity to all purchasers of single and duplex houses. AEC feels such an indemnity necessary in the case of priority purchasers, since it wished to encourage and continue residents in the community and employees on the project. Since, however, the indemnity is a long-term, potentially burdensome obligation, AEC believes its availability should be limited to priority purchasers of single and duplex houses.

4. *Guaranty of performance.*—Section 56 would provide that in selling a house subject to the right of occupancy of the existing tenant the Commission shall guarantee the lessee's performance under the terms of the lease. This would require the Commission to police the properties to be sure that they are properly maintained and could render it liable for any nonpayment of rent by the occupant. Under these circumstances the Commission would have the duties and responsibilities, but not the rights and powers, of a landlord and it would find it preferable not to transfer title until the expiration of the occupancy period, thereby delaying disposal.

5. *Tax equivalent payments.*—Section 55c attempts to specify the tax rates which the Commission may use in determining its tax equivalent payments by reference to the average tax for such services in cities of comparable size. The determination of such average tax rates is attended with a number of difficulties and uncertainties which could be productive of litigation. In addition, the provision would require the Commission to review and revise the tax equivalent payments established in large numbers of outstanding leases. Finally, the standard of this section would appear to be inconsistent with the level of taxes sought to be established by section 91b (2). Since the provision for tax equivalent payments will be applicable only for a brief period pending transfer of municipal functions it is suggested that the bill not prescribe the rates for such tax equivalent payments.

C. Miscellaneous comments

1. *Authority to remove certain housing.*—Section 52a of the committee print would confirm the authority of the Commission to continue its present program of removing unrehabilitated flattops and dormitories at Oak Ridge as promptly as can be done without excessive inconvenience to the occupants of this housing. AEC had proposed such confirmation in Mr. Strauss' letter to Congressman Dempsey of June 21, 1955.

2. *Sale of lots.*—Section 57a would provide for immediate sale of lots without awaiting appraisal of other properties. The Commission had planned to do this and is glad to have its authority to do so clarified. Section 57 would also provide that single residential lots leased by competitive bid which do not have a Government-owned building thereon would be sold at a price equal to the initial valuation of the lot as stated in the lease. This provision the Commission deems desirable

to relieve a special hardship situation which was discussed fully at the Oak Ridge hearings on June 10, 1955.

3. *Delegation of functions.*—Section 101 of the committee print would authorize the President to delegate to other agencies the duties and responsibilities placed on the Commission by the act as well as duties and responsibilities in respect of the operation of the communities. It would direct that the Commission retain no financing duties and responsibilities. It is assumed that the intent is to authorize delegation of any or all of the duties and responsibilities conferred by the act. While the Commission strongly desires to be relieved of as many of the burdens of the disposal program as is practicable, it feels that the programmatic responsibilities specifically placed on the Commission by other provisions of the bill are such that there will be a number of functions which the Commission must retain. This is inherent in a bill which is permissive rather than mandatory in character. In addition there will be numerous determinations required to be made under the bill which are so dependent on information contained in AEC's records and files that the transfer of the function of making such determinations to other agencies would be productive of unnecessary duplication of effort.

4. *Priorities.*—Section 43c would provide that two or more priority holders having a common interest in a building or location could assign their interest in a single assignee. If this provision is intended to permit unrestricted assignments to nonpriority holders, the Commission would find the provision objectionable as tending to invite sale of priority rights.

5. *Provisions relating to utilities.*—The committee print contains a chapter 7 relating to transfers of utility properties, section 73b of which establishes criteria which the Commission may consider in determining the transferee of any utility. The Commission's estimates of municipal costs and revenues have been based on the assumption that electrical utility revenues would be available to the new cities. The Commission does not construe section 73b as calling for any different disposition of the electrical distribution systems, but it would consider it helpful to include, among the criteria enumerated in section 73b, the effect of the transfer on the need of any entity for assistance payments under chapter 9.

We were advised orally by Mr. George Norris, Jr., that sections 32 and 38 of the committee print dated July 19, 1955, would be deleted. Accordingly, we have not commented on those sections. In the event the committee should decide to include either section in a bill we should like an opportunity to make known our views on them.

Time has not permitted clearance of this report with the Bureau of the Budget. We are concurrently transmitting a copy of this report to the Bureau and shall advise you of their comments as soon as they have been received.

Sincerely yours,

LEWIS STRAUSS, *Chairman.*

PROPOSED SUBSTITUTE FOR CHAPTER 9 OF COMMITTEE PRINT OF JULY 19, 1955

CHAPTER 9. LOCAL ASSISTANCE

SEC. 91. PAYMENTS IN LIEU OF TAXES.—For any tax year commencing subsequent to the date of transfer of any municipal facility at Oak Ridge (with respect to property at Oak Ridge) and at Richland (with respect to property at Richland), the Commission is directed to make, with respect to the interest of the United States in any real property directed to be disposed of by section 52 (a) of this Act, payments in lieu of property taxes or assessments for local improvements to the State or local entity having jurisdiction to collect such property taxes or assessments for local improvements. The amounts so paid shall approximate the real property taxes and assessments for local improvements which would be paid to the city, State, or political subdivision or agency thereof upon such property if it were not exempt from taxation by reason of Federal ownership: *Provided, however,* That any payment which becomes due under this subsection prior to the transfer of all municipal facilities at Oak Ridge (with respect to property at Oak Ridge) and at Richland (with respect to property at Richland) may be reduced by such amount as the Commission determines to be equitable, taking into consideration the municipal services then being performed by the Commission and the municipal services then being performed by such city, State, or political subdivision or agency thereof.

SEC. 92. CONTRIBUTIONS—(a) PURPOSE.—In addition to the payments in lieu of taxes provided for in section 91, it is recognized that contribution payments toward the support of municipal services to be provided by local entities will be required for a reasonable period. Such payments should be on a definitive

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basis which will provide for the orderly and reasonably prompt withdrawal of the Commission from participation in and assistance to local government. However, it is not feasible at this time to establish a definitive schedule of such payments. Accordingly it is the purpose of this section to provide for interim payments, and to establish procedures looking toward the future establishment of a definitive basis for contribution payments by the Atomic Energy Commission, which will contemplate the progressive reduction and eventual elimination of such payments.

(b) INTERIM PAYMENTS.—The Commission shall pay to each entity receiving a transfer of municipal facilities under chapter 8 (other than the transferee of a new hospital at Oak Ridge), for a period of three years beginning with the date of such transfer, an amount equal to the difference between (i) the reasonable costs to such entity of operating the facilities transferred to it and providing the services related to such facilities and (ii) the revenues receivable by such entity.

Such payments shall be made at such times as the Commission and the recipient shall mutually determine.

(c) COOPERATION WITH THE RESIDENTS.—The Commission and the residents of the communities are directed to cooperate in exploring facts relevant to the level of services which will not impede the recruitment and retention of personnel essential to the atomic energy program, the probable tax bases in the communities and available means to increase them, reasonable rates of taxes and other charges commensurate with the level of services to be provided, available sources of revenue to local entities, and other factors relevant to the determination of an appropriate definitive basis for contribution payments by the Atomic Energy Commission which will provide for the progressive reduction and eventual elimination of such payments.

(d) RECOMMENDATION OF THE COMMISSION.—Not less than 6 months prior to the expiration of such 3-year period as to any entity the Commission shall present to the Joint Committee on Atomic Energy its recommendation as to the need for any further contribution payments to such entity. If it recommends further contribution payments, it shall propose a definite schedule of such contribution payments which will provide for an orderly and reasonably prompt withdrawal of the Atomic Energy Commission from participation in and contribution toward local government.

(e) INCLUSION IN BUDGET.—The amounts of any proposed payments under subsection (c) hereof shall be included as separately identified items in the Commission's budget submission to Congress.

(f) REPORTS AND INFORMATION.—Any entity to which payments may be made under this section shall make such reports and give the Commission access to such information as the Commission shall reasonably require to enable it to make the determinations and recommendations called for by this section.

(g) DEFINITION.—"Revenues receivable" shall include all revenues of whatever nature and from whatever source, receivable for maintenance and operating purposes, including, without limitation, tax receipts, payments in lieu of taxes, grants and contributions, funds provided by the Atomic Energy Commission and other Federal, State, or local agencies, licenses, permits and other fees, fines and penalties, receipts from the sale or furnishing of other services and goods (other than sales of a nonrecurring nature), but shall not include payments under the act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended, nor electric or water utility revenues except to the extent that such utility revenues may lawfully and in accordance with good utility accounting practices be applied to general fund purposes. Any revenues received by the city or other newly established local entity at Oak Ridge or at Richland between the date of its incorporation or establishment and the date of transfer of municipal facilities to it, which have not been expended prior to such transfer, shall be credited against any payments required to be made to such city or other entity under subsection (b) of this section. In determining revenues receivable the Commission shall assume reasonable tax rates and other charges and normally diligent collection.

SEC. 93. AREA OF SERVICE.—The payments made pursuant to section 91 to transferees of municipal installations are in anticipation that the respective recipients of those payments furnish, or have furnished, for the community, the school, hospital, or other municipal services in respect of which the payments are made. Any such payment may be withheld, in whole or in part, if the Commission finds that the recipient is not furnishing such services for any part of the area so designated.

(Secs. 94 and 95 of the committee print would be deleted.)

APPENDIX II

HOUSING AND HOME FINANCE AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington 25, D. C., July 22, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Washington 25, D. C.

DEAR SENATOR ANDERSON: Mr. George Norris, Jr., of your staff has requested the views of this Agency with respect to the July 21 committee print of a draft bill entitled "A bill to facilitate the establishment of local self-government at the communities of Oak Ridge, Tenn., and Richland, Wash., and to provide for the disposal of federally owned properties of such communities."

The provisions of the bill of particular interest to this Agency are those relating to the disposal of housing and other federally owned properties in the communities of Oak Ridge, Tenn., and Richland, Wash. This Agency favors the objectives of the legislation and has conferred from time to time with representatives of the Bureau of the Budget and the Atomic Energy Commission concerning the subject matter of the bill. Three portions of the bill bear directly upon the operations of the Housing Agency: (1) Sections 32 and 33 relating to appraisals by this Agency (on a reimbursable basis for the Atomic Energy Commission) of the property to be sold pursuant to the bill, (2) section 101 relating to the delegation of functions of the Commission to other agencies, and (3) section 201 relating to mortgage insurance under section 223 of the National Housing Act for properties being disposed of under the bill. This Agency has no objection to these provisions of the bill except as to the specific items indicated below.

Board of Review for Appraisals.—This Agency strongly recommends the deletion of the provisions of section 32 relating to a Board of Review. This section would provide for the Housing and Home Finance Administrator (or his designee) making the appraisals of the properties to be disposed of under the bill, and would require the Administrator to provide for a Board of Review to examine all such appraisals upon appeal. The establishment of this Board is unnecessary, would accomplish no desirable objective, would cause unnecessary administrative problems, and would set a harmful precedent for appeals from appraisals in connection with all FHA normal insurance operations, as well as other disposal programs.

The Board of Review procedure prescribed in the bill is unnecessary for the protection of the prospective home buyer, since the appraisal of the FHA will take into consideration the economic background and discernible future of the community, the kind and quality of community services available and other factors which influence value, the attributes of the various locations within the community and the several types of property within these neighborhoods and, finally, the design, and physical condition of each unit. The appraisals will be prepared by qualified technicians, expert in their field and will be reviewed and coordinated by staff technicians in the FHA local insuring office. In cases where complaints arise with respect to FHA appraisals or inspections of a property, the local insuring office in the normal course of business reviews and reexamines its work. This practice will apply in the case of these appraisals and will be done without additional cost to the petitioner. The proposed Board of Review, would therefore, serve no useful purpose, and the proposed Board of Review procedure would place an additional administrative burden and expense upon the Agency.

Delegation of functions.—Section 101 of the bill would authorize the President to delegate the functions conferred on the Atomic Energy Commission by the bill to such other agencies of the Government as are qualified to perform them. The section also provides "The Commission shall retain no financing duties and responsibilities." The Housing Agency strongly recommends the deletion, or appropriate modification, of this quoted language, because we understand it is intended to require that the Housing Agency perform all of those financing duties. The Agency has worked closely with representatives of the Commission and the Bureau of the Budget in developing the types of functions which the Agency can appropriately perform on behalf of the Commission. This includes not only the appraisal work specifically covered by the bill, but the servicing of mortgages executed in connection with the disposal of the properties pursuant to the bill. This would cover the bulk of the financing work under the bill. However, we believe it would not be desirable to require all "financing duties and responsibilities" of the Commission to be delegated to this Agency. This would include matters relating to the terms and execution of mortgages given by purchasers of properties under the bill, and would involve policy questions which should properly

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be handled by the Commission and which seem to be appropriately conferred on the Commission by other provisions of the bill. It may also be pointed out that the quoted language is unnecessary for the purpose of authorizing such delegation of the Commission's functions under the bill as may be found to be desirable.

Technical corrections.—The term "Federal Housing Commissioner" should be substituted for "Housing and Home Finance Administrator" on page 10, line 11. The authority to insure mortgages under the National Housing Act is conferred on the Federal Housing Commissioner rather than the Housing and Home Finance Administrator.

The proviso beginning on page 37, line 22, should be stricken. This proviso, waiving preferences in existing laws, was apparently inserted in an earlier draft of the bill because of preference provisions in another statute which has since expired.

Clarification of downpayment requirement.—The Housing Agency recommends that the committee report, which we understand will soon be printed on the bill, make clear that the bill is not intended to change the downpayment requirements which would otherwise be applicable with respect to property covered by mortgages insured under the National Housing Act. It is our understanding that the bill is not intended to make such change. However, under the provisions of the National Housing Act, as it would be amended by the bill, it would technically be possible for the insured mortgage to be equal to the sales price of the property. This results from the fact that sections 35 and 36 would permit the sales price, under prescribed circumstances, to be substantially less than the appraised current fair market value of the property. A mortgage could comply with the loan to value ratio required by law and still equal the amount of the sales price under the bill. It is important that the bill not give a wrong impression of the intent of your committee in this regard, but that it be made clear that the maximum insurable mortgage amount be based upon sales price or appraised value whichever is lower.

Your staff has asked us to indicate whether the purchasers of residential properties being sold under the bill would be permitted to obtain FHA insurance assistance for repairs and improvements. These purchasers would be eligible for FHA title I home improvement loans and for the so-called open-end insured mortgage financing, where permitted by State law, to the same extent as owners of other residential properties throughout the country.

We have not yet had an opportunity to clear this letter with the Bureau of the Budget. As soon as we have received the views of the Bureau, we will advise you further.

Sincerely yours,

ALBERT M. COLE, *Administrator.*

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